

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7462 of 2022

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Arun Kumar S/o Late Bhubneshwari Prasad Sinha, retired as Chief Controller (E.C. Railway) Hajipur, Resident of - F-117 P.C. Colony, Kankarbagh, District - Patna, Pin- 800020, State - Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi - 110001.
2. The Director (Establishment), Railway Board, Ministry of Railways, Rail Bhawan, New Delhi - 110001.
3. The General Manager, E.C. Railway, Hajipur (Bihar).
4. The General Manager (Personnel), E.C. Railway, Hajipur (Bihar).
5. The Divisional Railway Manager, E.C. Railway, Sonapur Division, Sonapur (Bihar).
6. The Sr. Divisional Personnel Officer, E.C. Railway, Sonapur Division, Sonapur (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Shilpi Keshri, Advocate
For the Respondent/s : Kanak Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 17-08-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioner has assailed the order dated 05.04.2019 passed in O.A./050/00930 of 2015, by the Central Administrative Tribunal, Patna Bench, Patna (for short “The Tribunal”).

3. The petitioner and others were candidates for recruitment to the post of Class III like Assistant Station Master, Guard,



Commercial Clerk, Official Clerk and Accounts Clerk. In this regard advertisement was issued in the year 1978. Examinations were conducted in the year 1980-1981 by the Railway Recruitment Board, Muzaffarpur. The petitioner was selected and appointed on 01.11.1988.

4. Grievance of the petitioner is that petitioner is entitled to the benefit of fixation of pay and seniority with reference to the merit list published irrespective of the date of appointment and to assign seniority and fix notional pay. The Tribunal rejected the petitioner's grievance on the sole ground that there is a delay. Para 10 of order of the Tribunal reads as under:

“The Tribunal has noticed that admittedly the applicants were appointed in different categories of Class – III posts although their selection was made pursuant to examination conducted in 1980 and 1981 by Railway Recruitment Board, Muzaffarpur in response to advertisement No.9/78 dated 11.06.1978 and their seniority must have been maintained in their own categories. It is further observed that the grievance of the applicants pertains to the year 1980-81 as per their own submissions. If they were really aggrieved, they could have raised their grievance before the authorities at least before 1995, which they failed to do so. Certainly, it is a stale matter and is hopelessly barred by limitation.”

5. Learned counsel for the petitioner vehemently contended that when similarly situated persons who have been extended benefit in the year 2015 and the petitioner is also entitled to



have the benefit of seniority with reference to the decision rendered in O.A. No. 306 of 1988 and connected matters which has been quoted in paragraph No. 8 of the Tribunal's order. In paragraph No. 14 of the petition, the petitioner submitted that if any judicial pronouncement is passed in favour of an employee, the same is required to be followed by the employer and extend in respect of similarly situated persons, therefore, the Tribunal has committed error in not extending the benefit on par with others who are similarly situated persons.

6. Undisputed facts are that the Advertisement No. 9 of 1978 was notified on 11.06.1978. Among others petitioner was a candidate and selected and appointed on 01.11.1988. For the purpose of rectification of seniority and notional fixation of pay, the petitioner has presented O.A. in the year 2015.

7. Perusal of the records, it is evident that petitioner had cause of action in the year 1988 or within a reasonable period of three years from the date of his initial appointment. The petitioner was aware of the date of appointment and ranking in the select list. If there are any errors, in that event such errors were required to be challenged and agitated before the appropriate forum within a reasonable period of three years. Whereas the petitioner seems to be a fence sitter for the reasons that his grievance has been agitated for



the first time in the year 2015 with reference to earlier decision of the Tribunal in respect of similarly situated persons.

8. The petitioner cannot have the benefit of similarly situated persons after a long gap of 15 years. Moreover Apex Court in the case of *P.S. Sadasivaswamy vs. State of Tamil Nadu* reported in AIR 1974 SC 2271 read with *Vijay Kumar Kaul vs. Union of India* reported in (2012) 7 SCC 610 held that in respect of selection and appointment, seniority and promotion, the aggrieved persons must approach within a reasonable period of six months from the date of cause of action accrued. In the light of Apex Court decision cited *supra*, the petitioner has not made a case so as to interfere with the order of the Tribunal dated 05.04.2019 passed in OA/050/00930/2015.

9. Accordingly, petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	23.08.2022
Transmission Date	

