

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15990 of 2021

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Ajit Kumr Mishra Son of Late T.N. Mishra, Ex Senior Assistant Financial Advisor, East Central Railway, Pirbahore, District-Patna, Pin Code-800004 (Bihar) Now Posted as Senior Divisional Financial Manager, N.F. Railway, Katihar (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi-110001.
2. The Member (Staff), Railway Board, Rail Bhawan, New Delhi-110001.
3. The Secretary, Railway Board, Rail Bhawan, New Delhi-110001.
4. The Executive Director(Gazetted Cadre), Railway Board, Rail Bhawan, New Delhi-110001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Munna Pd. Dixit, Advocate
For the Respondent/s	:	Mr. Ramadhar Shekhar, Advocate
		Mr. Sanjay Kumar Choubey, Advocate
		Mr. Anil Singh, Advocate (Railways)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

6 02-02-2022 This application has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

The petitioner has put to challenge a judgement and order dated 01.01.2019 passed by a Division Bench of the learned Central Administrative Tribunal, Patna Bench in O.A. No. 050/00083 of 2016, whereby an application filed by the



petitioner under Section 19 of the Administrative Tribunal Act has been rejected.

The facts for adjudication of the present matter fall in narrow compass. The petitioner was appointed as Junior Accounts Assistant under Eastern Railway in the year 1987 and subsequently was promoted to the post of Stock Verifier on 14.08.1989. There was a limited departmental competitive examination held for filling up 30 per cent vacancies in the Group - "B" (Class-II Post) of Accounts Department. Applications were invited from the candidates eligible for the said examination on 25.07.1994. Clause 3 of the said notification dated 25.07.1994 inviting application laid down the eligibility condition, *inter alia*, to the effect that candidate must be holding the post of Sr. SO(A)/SO(A), Sr. ISA/ISA, Sr. TIA/TIA or Cost Accountant in the scales mentioned thereunder for a minimum period of five years in the grade as on 12.03.1994. Last date of submission of application form was fixed on 20.08.1994.

It is the petitioner's case that the respondents arbitrarily fixed 12.03.1994 as the date for determination of eligibility condition of holding a post in the grade mentioned thereunder for a minimum period of five years. According to the



petitioner, experience ought to have been determined as on the last date of submission of application form.

The petitioner's claim to the aforesaid effect has been rejected by the impugned judgement passed by the Tribunal.

Mr. Munna Prasad Dixit, learned counsel appearing on behalf of the petitioner has submitted that there is no rational basis for the respondents to have fixed 12.03.1994 as the date for determination of eligibility condition in Clause 3(1) of the notification. He has also submitted that eligibility of a candidate in terms of acquiring experience ought to have been determined as on the last date of submission of application form.

We do not find any merit in the aforesaid submission for two reasons. Firstly, the reason for fixing 12.03.1994 as the date on which a candidate must have acquired experience of five years, has been disclosed in the notification dated 25.07.1994 itself, which is the date on which 70 per cent selection notification was issued. This exercise was apparently done to minimise any scope of dispute arising out of appointment to the posts through two different sources, namely, by limited competitive examination and by selection. Secondly, it is permissible for the employer to fix a cut off date for the purpose of determination of eligibility conditions at the time of issuance



of the advertisement.

Mr. Munna Prasad Dixit, learned counsel appearing on behalf of the petitioner has submitted that the petitioner, in fact, appeared in the subsequent limited departmental competitive examination and has cleared the same.

Be that as it may, in view of the admitted facts as noted above, we do not find any merit in the petitioner's claim. There is no legal infirmity in the decision of the Tribunal rejecting the petitioner's claim by the impugned judgement and order. This writ application is accordingly dismissed being devoid of merit.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

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