

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19491 of 2021

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Smt. Reena Kumari Wife of Sri Anil Kumar Nursing Sister, E.C. Railway Hospital, Sonpur at present working at Super Specialty Central Hospital, East Central Railway, Karbigahia, Patna (Bihar)- 800001

... .. Petitioner/s

Versus

1. The Union of India through General Manager, East Central Railway, Hajipur, PIN- 844101
2. The General Manager (P) East Central Railway, Hajipur, PIN- 844101.
3. The Chief Medical Director, East Central Railway, Hajipur- 844101.
4. The Divisional Railway Manager, East Central Railway, Hajipur, PIN- 844101.
5. The Senior D.P.O. East Central Railway, Sonpur.
6. The Chief Medical Superintendent, East Central Railway Hospital, Sonpur.
7. The Medical Director, Super Specialty Central Hospital, East Central Railway, Karbigahia, Patna (Bihar)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Uma Kant Mishra, Advocate

For the U.O.I (Railway) : Mr. Ram Anurag Singh, C.G.C

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

9 28-11-2022 In the instant petition, petitioner has assailed the order of the Tribunal dated 10.05.2016 passed in OA 1000 of 2012. Grievance of the petitioner is that she is entitled to be promoted to the post of Nursing Sister in the pay scale of Rs. 5500-9000/- revised at Rs. 9300-34800/- grade pay of Rs. 4800/- from the year 2005 against SC Roster point under L Type



instead of from 11.05.2011. Tribunal proceeded to examine the issue whether the petitioner is entitled to the relief sought or not in para 3 of the order of the Tribunal reads as under:

The respondent have filed their written statement, wherein it has been stated that the total sanctioned post of Nursing Sister category is 12 and according to L-Type roster, point 4 and 12 are for candidates belonging to SC category and point 8 is for candidates belonging to ST category. A total number of two vacancies occurred during the year 2006 for the post of Nursing Sister, which were filled up from 1 UR candidate, i.e. Smt. Reena Devi and another from SC category candidate i.e. Smt. Savita Devi and both of them are senior to the applicant. It is further submitted that since the promotion on both the roster points in Nursing Sister category in SC at point 4 & 12 were given to Smt. Anita Kumari (SC) and Smt. Savita Devi (SC) w.e.f. 19.07.1998 and 15.02.2006 respectively and therefore the claim of the applicant is devoid of merit. However, the applicant was promoted to the post of Nursing Sister w.e.f. 11.05.2011 as per subsequent available vacancy. Accordingly, the respondents have prayed for dismissal of the OA.

Having regard to the aforesaid factual aspect, the learned counsel for the petitioner vehemently contended that Smt. Savita Devi is not entitled to promotion to the post of Nursing Sister as against SC Category, she does not belong to SC. In this regard, he is unable to apprise this Court as to



whether, Scheduled Caste certificate issued in favour of Smt. Savita Devi has been cancelled by the competent authority or not? As long as Scheduled Caste certificate issued in favour of Smt. Savita Devi is not cancelled, in such circumstances, she is entitled to have the benefit of reservation in promotion as against Scheduled Caste category.

Further, it is to be noted that the petitioner is stated to have been promoted to the post of Nursing Sister on 11.05.2011 and her intention was to alter the date of promotion from 11.05.2011 to that of year 2005 whereas the original application was filed in the year 2012. The petitioner has not questioned the validity of promotion order passed in favour of Smt. Savita Devi and who has been adjusted against Scheduled Caste category for the year 2005 to the post of Nursing Sister.

Further, in the event of granting any relief to the petitioner Smt. Reena Kumari in altering her date of promotion to the post of Nursing Sister from 11.05.2011 to that of in the year 2005, such of those persons who are between the aforesaid dates their rights would be affected and they have not been arrayed as necessary and proper party to the litigation, further, in the event of granting any relief to the petitioner right of Smt. Savita Devi or Smt. Anita Kumari would be affected and they



have not been arrayed as party, further, petitioner has not questioned the validity of promotion order of Smt. Savita Devi to the post of Nursing Sister, as long as order of promotion granted in favour of Smt. Savita Devi to the post of Nursing Sister is not assailed by the petitioner. The petitioner is not entitled to have the benefit of alteration of date of promotion to the post of Nursing Sister from 11.05.2011 to that of in the year 2005.

Accordingly, petitioner has not made out a case, hence the writ petition stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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