

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC NO.2179 OF 2019

Gandhi Behera & others **Petitioners**
Mr. A.K. Mohapatra, Advocate
-versus-
Union of India & others **Opp.parties**

Mr.Sanjib Swain, Sr. Panel Counsel

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S.SAHOO

ORDER (Oral)
27.10.2022

Order No.

7. 1. This matter is taken up through hybrid mode.
2. Learned counsel for the opposite parties-Railway refers to the show cause reply dated 15.12.2021 and additional show cause affidavit dated 30.09.2022 on behalf of the opposite parties sworn to by the opposite party no.3 who is also present in Court today as directed earlier.
3. The opposite parties through their show cause affidavit have tendered unconditional apology for the delay in implementation of the order dated 18.07.2019 passed in W.P.(C) No.18368 of 2009.
4. It is submitted by the learned counsel for the petitioners that out of the ten employees, who had approached the Court by filing the above writ petition, four employees have been granted retiral benefits as per Railway Services (Pension) Rules1993. Therefore, the direction as issued by this Court has not been complied with.

In response, learned counsel appearing for the Railways submits that the order passed by this Court has been complied

with in letter and spirit and by applying the Rule 69 (2) of Railway Services (Pension) Rules 1993 as well as the office memorandum issued by the Railway Board in RBE No.170/2019, the qualifying services of the employees have been calculated for the purpose of considering their eligibility for pension and, therefore, there has been substantial compliance of this Court's order.

5. It is also submitted that the revised qualifying service of the petitioner has been calculated in consonance with statutory Railway Rules of reckoning 50% of period of service rendered in Temporary Status and 100% of period of service rendered as regular employee in terms of Railway Board's letter dated 28.11.1986 circulated vide South Eastern Railway's Establishment serial No.4/87 and Chapter-XX of the Indian Railway Establishment Manual (Vol.II).

6. Since it is not disputed by the learned counsel for the petitioners that by applying the relevant pension Rule as well as the Memorandum of the Railway Board (Annexure-A/4), four employees, namely, Sri Gandhi Behera, Sri Hadu Sethi, Sri Narayan Srichandan and Sri R. Mukhalingam have been found eligible, we are of the considered view that there has been substantial compliance of this Court's order.

7. Accordingly, the contempt petition is dismissed.

8. However, it is also observed that if the other petitioners in W.P.(C) No.18638 of 2009, i.e., petitioner nos.3, 5, 6, 8, 9 & 10 are aggrieved by office memorandum dated 07.09.2021 issued by the Senior Personnel Officer (Con), E.Co. Railway, Bhubaneswar (Annexure-A/5) and office memorandum dated 07.09.2021 issued by the Sr. Personnel Officer (Con), E.Co.

Railway, Bhubaneswar (Annexure-A/7), they shall have the liberty to pursue the remedy available to them in law.

(Jaswant Singh)
Judge

(M.S. Sahoo)
Judge

October 27th 2022
Cuttack

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