

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7717 of 2022

1. The Union of India through its General Manager, East Central Railway, Hajipur, Vaishali.
2. The Chief Personal Officer, East Central Railway, Hajipur, Vaishali.
3. Divisional Railway Manager, Mughalsarai Division, East Central Railway, Mughalsarai.
4. Senior Divisional Personnel Officer, Mughalsarai Division, East Central Railway, Mughalsarai.
5. General Manager, Central Railway, Mumbai
6. Divisional Railway Manager (Personnel), Bhusawal Division, Central Railway, Bhusawal.

... .. Petitioner/s

Versus

1. Pramod Kumar Son of Sri Kaildeo Singh, resident of Mohalla - Vishwanath Singh Colony, Chhotki Delha, P.O.- Gaya, P.S.- Delha, District - Gaya The then Station Master, Manpur Station of Mughalsarai Division, East Central Railway.
2. Jai Shankar Prasad, S/o Sri Ram Gulam Pandit, R/o Mohalla - Talimpur, Ward No. 17, P.O.- Barh, P.S.- Barh, District - Patna, The then as Station Master, Karmnasa Station of Mughalsarai Division, East Central Railway.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Tuhin Shankar, CGC
For the Respondent/s	:	Mr. Gautam Saha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

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

Date : 27-04-2023

Heard learned counsels for the respective parties.

2. In the instant petition, petitioner – department has
assailed the order of the Central Administrative Tribunal



(hereinafter referred to as “the Tribunal”) dated 04.04.2019 passed in O.A. No. 050/00083/15 with M.A./050/00052/15.

3. Learned counsel for the petitioners submitted that grievance is relating to that of the year 2008 and respondents have not assailed wrong fixation of pay. They have sought only declaration. In the absence of challenge to the fixation of pay, the Tribunal has committed error in declaring that the respondents are entitled to a particular pay scale with reference to relief sought by them in the O.A. in the absence of setting aside fixation of pay in the year. Therefore, the petitioners have made out a case.

4. Accordingly, writ petition stands allowed while setting aside order dated 04.04.2019 passed in O.A. No. 050/00083/15 with M.A./050/00052/15. However, liberty is granted to the respondents to assail the wrong fixation of pay in filing fresh original application so also in filing interlocutory application for condonation of delay with reference to Apex Court decision in the case of *M.R. Gupta V. Union of India & Others* reported in **AIR 1996 SC 669**. Insofar as fixation of pay is concerned, it is continuing cause of action and third party right would not be affected. Further, even if the respondents’ pay is refixed to their advantage, in such circumstances arrears could be restricted to three years prior to filing of original application. This



may also be taken note of by the respondents while filing afresh original application before the Tribunal.

5. All the contentions are left open to be urged by the respective parties before the Tribunal.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2023
Transmission Date	NA

