

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19941 of 2016

1. The Union Of India and Ors
2. The General Manager, East Central Railway, Hajipur.
3. The General Manager, Personnel, East Central Railway, Hajipur.
4. The Senior Personnel Officer ESM, East Central Railway, Hajipur.

... .. Petitioner/s

Versus

1. Khursid Anwar and Ors Son of Md. Nasiruddin, resident of Loharwa Ghat, Alamganj, Post- Guljarbagh, Police Station- Alamganj, District- Patna.
2. Manoj Kumar, Son of Kamal Kishore Prasad, resident of Kishore Bhawan, Road No. 10, H.N.-65, Damaria, Post- Anishabad, Police Station- Gardanibagh, District- Patna.
3. R.R. Triyar, Son of Krishna Kumar Triyar, resident of Opposite Shastri Nagar Girls High School, Post and Police Station- Shastri Nagar, District- Patna.
4. Anup Kumar Gupta, son of not known, posted as PS-II, Security.
5. Aman Kumar, son of not known, posted as PS-II, Construction.
6. Firoz Ansari, son of not known, posted as PS-II, Personnel.
7. Niranjana Kumar, son of T.N. Prasad Singh, posted as PS-II, Construction.
8. Abdhesh Thakur, son of U.P. Thakur, posted as PS-II, Construction S and T.
9. Abhishek Kumar, son of A.K. Sinha, posted as PS-II, Construction.
10. Dilip Kumar, son of not known, posted as PS-II, Construction.
11. Ajay Kumar Pandey, son of B.P. Pandey, posted as PS-II, Vigilance.
12. Jitendra Kumar Ram, son of M. Ram, posted as PS-II, Security.
13. Yadu Nath Prasad, son of not known, posted as PS-II, Administration.
14. Uttam Kumar, son of Ganauri Lal, posted as PS-II, Administration.
15. Akhilesh Prasad, son of not known, posted as PS-II, Personnel.
16. Vikash Kumar Singh, son of not known, posted as PS-II, Construction.
17. R.P. Karan, son of Lal Dev Prasad, posted as PS-II, Construction.
18. Vijay Kumar, son of not known, posted as PS-II, Administration.
19. P.K. Singh, son of not known, posted as PS-II, Administration.
20. Ajay Kumar Singh, son of R.J. Singh, posted as PS-II, Store.
21. Vijay Kumar Choudhary, son of not known, posted as PS-II, Construction.
22. Ramanuj Das, son of S.R.R. Das, posted as PS-II, Store.
23. Chandan Kumar, son of Tulsi Ram, posted as PS-II, Administration.



25. Pramod Lakra, son of not known, posted as PS-II, Construction S and T. Respondent No.- 4 to 24 posted Grade- II in the Office of General Manager Personnel, E.C. Railway, Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nivedita Nirvikar, Advocate
For the Union of India : Mr. Tuhin Shankar, Advocate
For the Respondent/s : Mr.R.K.Bariar, Advocate
Mr.M.P.Dixit, Advocate
Mr.S.K.Dixit, Advocate
Mr.S.K.Chaubey, Advocate
Mrs.Swatika, 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 : 13-02-2023

In the instant petition, petitioner has prayed for the following relief:-

“That this is an application for issuance of writ in the nature of certiorari for quashing the order dated 28.07.2016 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred as the Tribunal) in O.A. No. 962 of 2012 (Khurshid Anwar & Ors. vs. The Union of India & Ors.) whereby and where under the learned Tribunal held that the applicants/respondents 1st set to be entitled for promotion to the post of Private Secretary Grade II (in short PS-II) in Grade pay of Rs. 4600/- and accordingly the learned Tribunal has been pleased to set-aside seniority list dated 24.01.2012 of PS-II and order dated 06.08.2012 directing the Respondent (Petitioners herein) to fix and maintain the inter-se seniority of applicants/respondents 1st set and respondents 2nd set in the seniority list of



PS-II as per the seniority of Confidential Assistant (in short Cas).”

2. Original Applicants before the CAT have questioned the validity of Annexure-A/15 and Annexure-A/19 dated 24.01.2012 and 06.08.2012. Perusal of Annexure-A/15, it is evident that it is only a provisional seniority list of Private Secretary Grade-II and rejection of petitioners' grievance. In all fairness CAT should not have entertained the Original Application insofar as challenge to the provisional seniority list of Private Secretary Grade-II. Reading of Section 19 of the Administrative Tribunal Act, 1985, it is crystal clear that only against order in other words final order could be challenged before the CAT. As is evident from Annexure-A/15, it is only a provisional seniority list, therefore, one has to draw inference that official authorities would issue final seniority list after due consideration of objection/suggestion of any affected person's ranking or any other issues.

3. In the present case it is noticed that original applicants are stated to have filed their objections/suggestions to alter their ranking, etc. However, it has been rejected without issuing final seniority list. Therefore, original application filed by the original applicants is not maintainable. Accordingly, it is set aside while treating the provisional seniority list *vide* Annexure-A/15 as



provisional. The original applicants are permitted to file their further objections/suggestions within a period of one month from the date of receipt of this order. Thereafter, the concerned authority is hereby directed to consider grievance of the original applicants and proceed to publish final seniority list.

4. Apex Court in the case of **C. Navaneeswara Reddy vs. State of Andhra Pradesh & Ors.** reported in **(1998) 3 SCC 240** held that while publishing final seniority list objections/suggestions to the provisional seniority list is to be considered. The principle in the aforesaid decision is attracted in the present case. Concerned authority is directed to take note of the same.

5. Rejection of original applicants' grievance *vide* order dated 06.08.2012 is set aside. The entire matter is remanded to the concerned authority to undertake fresh steps insofar as consideration of objections/suggestions of the original applicants and proceed to publish final seniority list. The above exercise shall be completed within a period of four months from the date of receipt of this order.

6. Thereafter, consider grievance of the original applicants before the CAT. If grievance is redressed in their favour, in that event concerned authority is hereby directed to undertake



promotion procedure on par with the contesting respondents who
were promoted.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2023
Transmission Date	NA

