

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3951 of 2023

1. Yogendra Rajak Sri Harkhit Rajak, Resident of Village- Kajee Rasalpur, P.S.- Teghra, District- Begusarai, Pin Code- 851133 (Bihar)
2. Ram Nandan Paswan Son of Sri Late Lal Gobind Paswan, Resident of Village- Sharawan Tola, Narepur Diyara, P.S.- Bachhawara, District- Begusarai, Pin Code- 851111 (Bihar)
3. Gore Lal Paswan Son of Sri Navi, Resident of Village- Mathurapur, P.S.- Khagaria, District- Khagaria, (Bihar)
4. Bal Kishore Son of Sri Bauku, Resident of Village- Kamalpur, P.S.- Khagaria, District- Khagaria, (Bihar)
5. Magani Paswan Son of Sri Kishun, Resident of Village- Mathurapur, P.S.- Khagaria, District- Khagaria, (Bihar)
6. Suraj Paswan Son of Sri Ram Majju Paswan, Resident of Village- Naropur, P.S. Bachhawara, District- Begusarai, Pin Code- 851111 (Bihar)
7. Ram Sankar Paswan Son of Sri Jago Paswan, Resident of Village- Bihat, P.S.- Barauni, District- Begusarai, Pin Code- 851135 (Bihar)
8. Dukhan Paswan Son of Sri Sita Paswan, Resident of Village- Wohar, P.S.- Barani, District- Begusarai, Pin Code- 851135 (Bihar)

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar)
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
3. The Divisional Railway Manager, East Central Railway, Sonapur, P.O.- Sonapur, P.S.- Sonapur, District- Saran, Pin Code- 841101
4. The Senior Divisional Personnel Officer, East Central Railway, Sonapur, P.O.- Sonapur, P.S.- Sonapur, District- Saran, Pin Code- 841101 (Bihar)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Munna Pd Dixit (M.P. Dixit) Mr. Sanjay Kumar Dixit, Advocate Mr. Sanjay Kumar Chaubey, Advocate Mr. Swastika, Advocate Mr. Shailendra Kumar, Advocate Mr. Milind Raj Dixit, Advocate Mr. Punit Ranjan Dixit, Advocate
For the Respondent/s	:	Mr.Additional Solicitor General

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT



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

Date : 24-06-2024

In the instant petition, petitioners have assailed the order of C.A.T. dated 22.11.2022 passed in O.A. No. 798 of 2022.

2. The present *lis* has chequered history. Petitioners were initially employed as casual employee in the year 1973-77. Among others, petitioners were subjected to certain departmental test for Group-D post in the year 1992-93. Such test was passed by 49 candidates including the petitioners and to that effect result was announced on 29.06.1994. Thereafter, within a reasonable period of time, among others, petitioners' services should have been regularized / absorbed against Group – D post. On the other hand, petitioners' services have not been regularized. Resultantly, petitioners were compelled to approach Central Administrative Tribunal (for short C.A.T.). The reasons for non regularization / absorption of eight petitioners was that they were over aged in the year 2002. The C.A.T. allowed the petitioners' original application on 27.01.2006.

3. Respondents preferred review petition and so also petitioners preferred Contempt of Court application before the C.A.T. Review petition was dismissed. During the pendency



of Contempt of Tribunal application, respondents preferred C.W.J.C. No. 7978 of 2008 and 8085 of 2008 in which the Co-ordinate Bench of this Court upheld the decision of the C.A.T. passed in original application and review petition on 10.05.2012 while taking note of screening test in the year 1994.

4. Feeling aggrieved by the Co-ordinate Bench decision in C.W.J.C. No. 7978 of 2008 and 8085 of 2008, respondents preferred S.L.P. before the Hon'ble Supreme Court and it was dismissed on 12.03.2013. During pendency of contempt of tribunal application before C.A.T., respondents have taken decision to regularize three petitioners namely Petitioner Nos. 1, 3 and 6 with effect from 10.04.2013 in so far as remaining five petitioners are concerned a lump sum amount of Rs. 54,531/- was paid to each of the five petitioners towards compensation.

5. Feeling aggrieved by the action of the respondents, petitioners once again filed application before the C.A.T. in O.A. No. 798 of 2022 in so far as denial of regularization / absorption from the date similarly situated persons whose services have been regularized / absorbed in the year 2001 with reference to departmental test conducted in the year 1992-93 read with result on 29.06.1994. C.A.T. rejected



O.A. No. 798 of 2022 while upholding the decision of the respondents in so far as the regularization of three petitioners and settlement of certain amount cited (supra) in so far as five petitioners are concerned. Hence, the present CWJC.

6. Learned counsel for the petitioners vehemently contended that over age issue cannot be adjudicated at belated stage with reference to belated date as on the date of test conducted in the year 1992-93 read with the result on 29.06.1994, each of the petitioners were within the stipulated age limit for the purpose of regularization / absorption. Eligibility for regularization / absorption cannot be with prospective date and it should be from the retrospective date on which departmental test was conducted in the year 1992-93. It is also submitted that if there are any administrative difficulty in passing regularization / absorption order in the year 1994-95 and for no fault on the part of the petitioners, they shall not be penalized to the extent that their date of regularization postpones and some of petitioners are not entitled for regularization and they are entitled to compensation of Rs. 54,531/- each, are highly arbitrary and illegal.

7. On earlier occasion, we have specifically posed a question to the respondents to the extent that as on



29.06.1994, how many vacancies were available with reference to the successful of 49 candidates in a departmental test. In this regard, they have not specifically come up with the material information. However, in one of the communication, we have noticed that there were 40 vacancies available in the year 1992-93.

8. Be that as it may, the reasons for non absorption / regularization in so far as petitioners are concerned that they are over aged as on in the year 2002. Therefore, one has to draw inference that there were vacancies very much available for the purpose of regularization and absorption in the year 1993-93 and 1994.

9. C.A.T. has failed to apprise that petitioners were not over aged as on the date of passing departmental test on 29.06.1994. Prospectively, if they are over aged due to pending decision on the absorption and regularization on behalf of the official respondents. It was beyond their control. In fact, the official respondents should have resorted to absorption / regularization timely with reference to conduct of departmental test in the year 1992-93 read with the result on 29.06.1994. Further, similarly situated persons whose services are stated to have been regularized in the year 2001 and petitioners' names



have been ignored only on the count that as on the date of regularization in the year 2001-2002 they were over aged. The eligibility for the purpose of absorption / regularization is required to be taken note of as on the date of conduct of departmental test in the year 1992-93 read with the fact they have passed departmental test on 29.06.1994 the date on which results were announced. The eligibility is required to be considered from the date of conduct of test read with the result. Petitioners have been permitted to participate in the departmental test for the purpose of regularization / absorption in the year 1992-93 only after due consideration of their eligibility to the absorption / regularization. These issues have not been apprised by the C.A.T. in O.A. No. 798 of 2022 decision on 22.11.2022.

10. Accordingly, the order of C.A.T dated 22.11.2022 stands set aside. O.A No. 798 of 2022 filed on behalf of the petitioners stands allowed while quashing the impugned action of the respondent dated 22.11.2022

11. The respondents are hereby directed to consider each of the petitioners name for the purpose of regularization / absorption on par with such of those persons who have participated in the process of departmental test in the



year 1992-93 read with result announced on 29.06.1994, their services were stated to have been regularized in the year 2001. On par with such of those persons, the petitioners services shall be regularized in the year 2001 or 2002 with reference to a particular date and proceed to extend all service and monetary benefits during the intervening period from the date of regularization till attaining age of superannuation. If any of the petitioners are in service, they shall be extended a particular pay scale with reference to date of regularization and extend revision of pay and other admissible service and monetary benefit.

12. The above exercise shall be completed within a period of six months from the date of receipt of this Order.

13. With the above observation, C.W.J.C. No. 3951 of 2023 stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.06.2024.
Transmission Date	N/A

