

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2869 of 2024

In
Civil Writ Jurisdiction Case No.3695 of 2024

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1. Gyan Prakash S/o Late Shukdeo Sah Resident of Mohalla - Brahampura, P.O. - M I T, P.S. - Brahampura, District - Muzaffarpur - 842003.
 2. Ramesh Kumar No. - III, S/o Late Indrajeet Singh Resident of Village - Muzaffarpur Kamtaul, P.O.- Anant Kamtaul, P.S. - Kurhani, District- Muzaffarpur- 844120.
 3. Saket Kumar, S/o Sri Ratnesh Jha Resident of village and P.O. - Madhopur, Via - Majhauria Estate, District - Sitamarhi, 843322.
 4. Harmesh Kumar, S/o Sri Suresh Prasad Sahani Resident of Mohalla - Pamaria Tola Brahampura, P.O.- M.I.T., P.S.- Brahampura, District - Muzaffarpur, 842003.
 5. Shiv Sagar Kumar, S/o Late Debak Das Resident of Village and P.O. - Morsand (Bahadurpur), P.S.- Pusa, District- Samastipur, 848115.

... .. Petitioner/s

Versus

1. The Union of India through Sh. Chhatrasal Singh, General Manager, East Central Railway Hajipur, P.O. - Digghi Kala, P.S. - Hajipur, District - Vaishali At Hajipur - 844101.
2. Sh. Bipin Kumar Singh, The Pr. Chief Personnel Officer, East Central Railway, Hajipur, P.O. - Digghi Kala, P.S. - Hajipur, District- Vaishali At Hajipur - 844101.
3. Sh. Vivek Bhushan Sood, The Divisional Railway Manager, E.C. Railway, Sonpur- 841101.
4. Sh. Deepak Raj Ray, The Divisional Railway Manager (Personnel), E.C.Railway, Sonpur- 841101.
5. Sh. Deepak Raj Ray (Incharge), The Sr. Divisional Personnel Officer, East Central Railway, Sonpur- 841101.
6. Sh. Deepak Raj Ray, The Divisional Personnel, East Central Railway, Sonpur- 841101.
7. Sh. Pawan Nag, The Sr. Divisional Electrical Engineer (OP), East Central Railway, Sonpur- 841101.
8. Sh. Sudhir Kumar, The Chief Crew Controller, Diesel Lobby, East Central Railway, Muzaffarpur- 842001.

... .. Opposite Party/s

with
CIVIL REVIEW No. 239 of 2024
In
Civil Writ Jurisdiction Case No.3695 of 2024



1. The Union of India Through the General Manager, East Central Railway Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur- 844101.
2. The Pr. Chief Personnel Officer, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur- 844101.
3. The Divisional Railway Manager, E.C. Railway, Sonpur- 841101.
4. The Divisional Railway Manager (Personnel), E.C. Railway, Sonpur- 841101.
5. The Sr. Divisional Personnel Officer, East Central Railway, Sonpur- 841101.
6. The Divisional Personnel, East Central Railway, Sonpur- 841101.
7. The Sr. Divisional Electrical Engineer (OP), East Central Railway Sonpur- 841101.
8. The Chief Crew Controller, Diesel Lobby, East Central Railway, Muzaffarpur- 842001.
9. The Chief Crew Controller, Diesel Lobby, East Central Railway Barauni- 851112.

... .. Petitioner/s

Versus

1. Gyan Prakash S/o Late Sukhdeo Sah, Resident of Mohalla- Brahampura, P.O.- M I T, P.S.- Brahampura, District- Muzaffarpur- 842003. At present under orders of temporary Transfer from Muzaffarpur Lobby to Barauni Lobby while holding the post of Loco Pilot Passenger.
2. Ramesh Kumar No. III S/o Late Indrajeet Singh Resident of village- Muzaffarpur Kamtaul, P.O.- Anant Kamtaul, P.S.- Kurhani, District- Muzaffarpur, 844120. At present under orders of temporary Transfer from Muzaffarpur Lobby to Barauni Lobby while holding the post of Loco Pilot Passenger.
3. Saket Kumar S/o Sri Ratnesh Jha Resident of village and P.O.- Madhopur, Via- Majhaulia Estate, District- Sitamarhi. 843322. At present under orders of temporary Transfer from Muzaffarpur Lobby to Barauni Lobby while holding the post of Loco Pilot Passenger.
4. Harmesh Kumar S/o Sri Suresh Prasad Sahni Resident of Mohalla- Pamaria Tola Brahampura, P.O.- M.I.T. P.S.- Brahampura, District- Muzaffarpur. 842003. At present under orders of temporary Transfer from Muzaffarpur Lobby to Barauni Lobby while holding the post Loco Pilot Passenger.
5. Shiv Sagar Kumar S/o Late Debak Das Resident of village and P.O. - Morsand (Bahadurpur), P.S.- Pusa, District- Samastipur. 848115. At present under orders of temporary Transfer from Muzaffarpur Lobby to Barauni Lobby while holding the post of Loco Pilot Passenger.
6. Sri Sanjay Kumar, LP/Goods. Now on promotion to LP/Passenger vide order dated 30.11.2023 posted at Muzaffarpur Lobby, East Central Railway, Muzaffarpur 842001.
7. Shri Awadhesh Kumar, LP/Goods, Now on promotion to LP/Passenger vide order dated 30.11.2023, posted at Muzaffarpur Lobby, East Central Railway, Muzaffarpur- 842001.



8. Shri Ranjan Kumar, LP/Goods, Now on promotion to LP/Passenger vide order dated 30.11.2023, posted at Muzaffarpur Lobby, East Central Railway, Muzaffarpur- 842001.
9. Md. Kalimullah, LP/Goods, Now on promotion to LP/Passenger vide order dated 30.11.2023, posted at Muzaffarpur Lobby, East Central Railway, Muzaffarpur, 842001.
10. Shri Babu Lal Das, LP/Goods, Now on promotion to LP/Passenger vide order dated 30.11.2023, posted at Muzaffarpur Lobby, East Central Railway, Muzaffarpur 842001.
11. Shri Jay Nath Kumar Roy, LP/Goods, Now on promotion to LP/Passenger vide Order dated 30.11.2023, posted at Muzaffarpur Lobby, East Central Railway, Muzaffarpur 842001.
12. Shri Vinod Kumar Mahto, LP/Goods, Now on promotion to LP/Passenger vide Order dated 30.11.2023, posted at Muzaffarpur Lobby, E C Railway, Muzaffarpur, 842001.
13. Shri Sanjay Kumar, LP/Goods, Now on promotion to LP/Passenger vide Order dated 30.11.2023, posted at Muzaffarpur Lobby, E C Railway, Muzaffarpur, 842001.

... .. Opposite Party/s

Appearance :

(In Miscellaneous Jurisdiction Case No. 2869 of 2024)

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Respondent : Dr. Maurya Vijay Chandra, Adv.

(In CIVIL REVIEW No. 239 of 2024)

For the Petitioner/s : Dr. Maurya Vijay Chandra, Adv.

Dr. K.N. Singh, ASG

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

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

4 25-09-2024

Re:-Civil Review No. 239 of 2024.

The present civil review petition has been filed to recall the order dated 24.06.2024 passed in CWJC No. 3695 of 2024. In para-5 learned counsel for the review petitioner submitted that from the date of status quo till acceptance of the duty report was directed to be treated as duty and that cannot be



treated as duty. On the other hand, it could be treated as leave at respondent's credit. The same cannot be acceptable so as to review our order dated 24.06.2024 passed in CWJC No. 3695 of 2024. For the reasons that scope of review under Order 47 Rule 1 of C.P.C. is limited. Even on this point, the Hon'ble Supreme Court in the case of **Sanjay Kumar Agarwal v. State Tax Officer (1) & Anr.** reported in **2023 SCC OnLine SC 1406** laid down eight principles in Para 16 which reads as under:-

“16. The gist of the afore-stated decisions is that:—

(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected.”

(v) A Review Petition has a



limited purpose and cannot be allowed to be “an appeal in disguise.”

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision/judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review.”

In view of the aforementioned principle, review petition is not maintainable.

2. Be that as it may, in our discretionary power we have directed the concerned authority to regulate certain period as leave at credit of the respondents and from the date of status quo i.e. 27.02.2024 till reinstatement should be treated as duty for the reasons that unnecessarily respondents have been asked to appear before the Medical Board on two occasions. It could have been rectified by the concerned authority at their level itself. On the other hand, due to interference of this Court the



appointing authority was compelled to subject the respondents for Medical Board for the second time in the original petition. In fact these are all administrative matters which were required to be attended by the appointing authority at the earliest in the interest of administration. The same has not been exercised. Resultantly, at our instance each and every steps have been taken into consideration by the appointing authority insofar as taking back the respondents in their original position.

3. In the light of the above facts and circumstances, Civil Review No. 239 of 2024 stands rejected. Accordingly, MJC No. 2869 of 2024 is delinked from Civil Review No. 239 of 2024.

Re:-MJC No. 2869 of 2024

4. Respondents are hereby directed to file counter affidavit positively before the next date of hearing.

5. Re-list this matter on 23.10.2024.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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