

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.6310 of 2023

Chintamani Tiwari, aged about 73 years son of D.M. Tiwary, resident of village Bhishki, P.O. and P.S. Saidabad, District Allahabad, Uttar Pradesh.

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Petitioner

Versus

1. Union of India through General Manager, South Eastern Railway, P.O. and P.S. Garden Reach, Kolkata-700043.
2. The Chief Commercial Officer, South Eastern Railway, 14 Strand Road, Kokata-700001.
3. The Chief Catering Manager, South Eastern Railway, 14 Strand Road, Kokata-700001.
4. The Divisional Railway Manager(P), South Eastern Railway, Chakradharpur Division, Chakradharpur, District West Singhbhum

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Respondents

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant	: Mr. Saibal Mitra, Advocate
For the UOI	: Mr. Anil Kumar, Addl. S.G.I.
	Mrs. Chandana Kumar, AC to A.S.G.I.

04/Dated: 08.01.2024

1. This writ petition is under Article 226 of the Constitution of India, directed against the order dated 11.01.2011 passed by the learned Central Administrative Tribunal Patna Bench, Patna, Circuit Court at Ranchi in O.A. No.160 of 2009, whereby and whereunder, the relief sought for quashing the order dated 19.12.2008 passed by the Sr. Divisional Personnel Officer, Chakradharpur, by which, the relief sought for by the writ petitioner praying a direction upon the respondents to give the benefits of regularization to the applicant with effect from the initial order of the Hon'ble Apex Court, has been

rejected.

2. The brief facts of the case as per the pleading made in the writ petition, required to be enumerated are as under:-

3. It is the case of the writ petitioner that the applicant/petitioner was engaged as Commissioned Vendors in the Catering Division of the South Eastern Railway, at Tatanagar under the Chakradharpur Division in the year, 1970 and since then he has been working as Commissioned Vendor/Bearer of different fixed amount of remuneration in the forms of commission.

4. In the year, 1995, South Eastern Railway Congress along with a group of Commissioned Vendors/Bearers working in the South Eastern Railway had agitated the matter before the Hon'ble Supreme Court by filing W.P.(C) No.196 of 1995, in which, interim order was passed on 28.08.1995 directing to make payment of equal salary to those of the regular Vendors/Bearers w.e.f. August, 1995. Further, the said order was modified vide order dated 09.10.1995 giving direction that the said mode of payment of salary shall be applicable to others also provided they are actually working as Commissioned Vendors/Bearers. Thereafter, the Hon'ble Supreme Court vide order dated 03.12.1997 has disposed of the aforesaid writ petition directing the respondents to provide the Vendors/Bearers the benefits of 5th Pay Commission with Dearness Allowance, House Rent and other admissible allowances until they are absorbed in permanent vacancies. There were several vacancies exist but respondents intentionally delay the matter and ultimately after about five years of

the order of the Hon'ble Supreme Court, the respondents have prepared a panel and the petitioners were posted in different Group-D posts of South Eastern Railway in Chakradharpur Division. The petitioners have submitted an application before the respondents for giving the benefits from 1995 following the aforesaid Supreme Court order vide letter dated 21.06.2002 but the same has not been considered.

5. The writ petitioner, being aggrieved, has preferred one original application being O.A. No.136 of 2007 seeking therein the direction to give benefits of regularization to the applicant with effect from the initial order of the Hon'ble Apex Court in Writ Petition (C) No.196/1995 in the matter of ***South Eastern Railway Congress & Ors. Vrs. The Chairman, Railway Board & Ors.***, on 03.12.1997.

6. The aforesaid original application was disposed of vide order dated 24th June, 2008 at the admission stage with a direction upon the respondents to consider the grievance of the writ petitioners in the light of the judgment dated 03.12.1997 passed in Writ Petition (C) No.196/1995.

7. The concerned competent authority has considered the case of the writ petitioners while passing the order dated 19.12.2008 in the light of the order passed by the Hon'ble Apex Court in Writ Petition (C) No.196/1995, but, the prayer for counting the services from the date of the order of the Hon'ble Apex Court has been negated, thereafter, the original application being O.A. No.160 of 2009 has been filed, but the same has also been rejected, against which, the

present writ petition.

8. Mr. Saibal Mitra, learned counsel for the writ petitioner has submitted by referring to Annexure-4, [W.P.(S) No.1583 of 2012] which is the order passed in favour of the writ petitioners, who are the applicants in original application no.160 of 2009 (Ranchi) along with the present writ petitioner, namely, Chintamani Tiwari.

9. Submission has been made that this Court has passed the order allowing the writ petition being W.P.(S) No.1583 of 2012 on 24.04.2023 by quashing the order dated 11.01.2011 passed by the Central Administrative Tribunal Patna Bench, Patna, Circuit Court at Ranchi in O.A. No.160 of 2009, as such, the instant writ petition may also be allowed in terms of the aforesaid order, since the same issue has already been decided which has been set at rest by this Court as per Annexure-4 appended to the writ petition.

10. Mr. Anil Kumar, learned Addl. S.G.I. appearing for the respondent-UOI after going through the Annexure-4 and taking the party position as referred at Annexure-6, as also the prayer made in Annexure-6 (Original Application No.160 of 2009) has not controverted the argument advanced on behalf of the writ petitioner so far as it relates to similar issue having been dealt with by this Court vide order dated 24.04.2023 passed in W.P.(S) No.1583 of 2012.

11. This Court, after having heard the learned counsel for the parties and taking into consideration the fact that the order passed by the Central Administrative Tribunal Patna Bench, Patna, Circuit Court

at Ranchi dated 11.01.2011 in O.A. No.160 of 2009, has been quashed and set aside, so far as it relates to writ petitioners in W.P.(S) No.1583 of 2012, namely, Lalmani Tiwari, Ram Bachan Prasad, Gangadhar Poddar, Shankar Sahu, Bihari Lal and Ram Deo Singh.

12. The writ petitioner, herein, is also the applicant no.4 in O.A. No.160 of 2009 along with the writ petitioners, namely, Lalmani Tiwari, Ram Bachan Prasad, Gangadhar Poddar, Shankar Sahu, Bihari Lal and Ram Deo Singh in W.P.(S) No.1583 of 2012, therefore, the instant writ petition also deserves to be allowed.

13. In view thereof, the order dated 11.01.2011 passed by the Central Administrative Tribunal Patna Bench, Patna, Circuit Court at Ranchi dated 11.01.2011 in O.A. No.160 of 2009 is hereby quashed and set aside.

14. Accordingly, the instant writ petition is allowed.

(Sujit Narayan Prasad, J.)

(Pradeep Kumar Srivastava, J.)

Rohit/-**N.A.F.R.**