

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 536 of 2016

Tribhuwan Shaw S/o-Late Ram Kishan Shaw resident of Village-Sankul, P.O.- Patratu (Diesel Shed), P.S.- Patratu, Distt- Ramgarh, Jharkhand Petitioner

Versus

1. Union of India, through the General Manager, East Central Railway, P.O.+ P.S.+ Distt-Hazipur (Bihar)
2. Senior Divisional Personnel Officer, East Central Railway, P.O.+P.S.+Distt- Dhanbad (Jharkhand)
3. The Divisional Railway Manager, East Central Railway, P.O.+P.S.+Distt-Dhanbad (Jharkhand)
4. Senior Divisional Operating Manager, East Central Railway, P.O.+P.S.+Distt-Dhanbad (Jharkhand) ... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Binod Kumar , Advocate
 For the Respondents: Mrs. Niki Sinha, CGC

07/Dated: 01.09.2025

Tarlok Singh Chauhan, C.J.(Oral)

1. Heard the parties.
2. Aggrieved by the order of dismissal of the OA No. 051/00187/2014 by the learned Central Administrative Tribunal, Patna, Circuit Bench at Ranchi, the petitioner has filed the instant writ application.
3. The case of the petitioner before the Tribunal was that while working as a Cabin Master he passed examination of Goods Guard and was allowed to join the training and after successfully completing his training, he performed the duty as Goods Guard in the Month of January, 2014 and retired, as such, on 31.01.2014, but his pension was fixed on the basis of last pay drawn on 31.12.2013

in which the running allowance of 55% in the grade of Goods Guard was not added, constraining him to file an Original Application before the Tribunal seeking therein a direction to the respondents to fix and pay from January 2014 the running allowance of 55% in the grade of Goods Guard and other consequential benefits.

4. The respondents contested the Original Application by filing a reply wherein it was averred that the petitioner was though empanelled for the post of Goods Guard in the pay scale of Rs. 5200-20200/- + Grade Pay of Rs. 2800/- against departmental promotion quota of which results of the written examination was published on 08.10.2013, and the petitioner was also sent for initial course training from 11.11.2013 to 20.12.2013, but the petitioner could not be appointed as by the time of the posting orders of the successful trainees had been issued vide order dated 19.02.2014, the petitioner had already retired on 31.01.2014 and could not complete his line training. Therefore, he was not competent to perform duty independently as Goods Guard and hence, could not be posted as Guard.

5. The petitioner in support of his contention that he had been performing duties of a Goods Guard had appended the following documents:-

- i. A certificate of completion of training as Annexure-A/2
- ii. A challan issued by the Stores I/C by which he has been issued some equipment showing him as Goods Guard.
- iii. A copy of a combined report of running of a train, which is filed by Drivers and Guards.

6. However, the learned Tribunal held that since the petitioner had claimed promotion from Cabin Master to Goods Guards in pursuance of a Limited Departmental Examination, therefore, there ought to be a formal order for such promotions especially when such formal order of promotion had been issued to the empanelled candidates vide order dated 19.02.2014, in which the applicant's name did not figure as he had already retired.

7. The learned Tribunal further held that there could not be deemed promotion and accordingly dismissed the Original Application.

8. Feeling aggrieved thereby, the petitioner has filed the instant writ application. It is vehemently argued by Sri. Binod Kumar, learned counsel for the petitioner that the finding rendered by the learned Tribunal is perverse, on the other hand, learned counsel for the respondents would contend that since the petitioner had not been appointed as per law, therefore, he is not entitled to the relief as sought for before the Tribunal.

9. We have heard the learned counsel for the parties and have gone through the material placed on record. It needs to be noticed that the simple case of the petitioner before the Tribunal was that he had been working independently as a Goods Guard from 05.01.2014 to 25.01.2014 but he was unable to place any material before the Tribunal or before this Court regarding a formal order of promotion.

10. Even taking to the case of the petitioner at its best, the petitioner can only be held to be entitled to equal pay for equal

work for the days which he has allegedly worked as a Goods Guard.

11. As regards promotion from Cabin Master to Goods Guard, admittedly there was a limited departmental examination and thereafter training for the said post. Even though, the petitioner had successfully completed the training but the fact remains that no formal order of promotion had been issued in his favour rather it has been duly proved on record that the counterparts of the petitioner actually came to be promoted who had undergone the training with the petitioner had as a matter of fact been formerly appointed vide order dated 19.02.2014 by which time the petitioner had already retired on 31.01.2014. Obviously in such circumstances no fault can be found with the order passed by the Tribunal when the Tribunal dismissed the original application, firstly on the ground that there could be no deemed promotion and secondly because the petitioner had failed to place on record any order of promotion showing therein his promotion from Cabin Master to Goods Guard.

12. Having said so, we find no merit in this application and the same is accordingly, dismissed, leaving the parties to bear the costs.

(Tarlok Singh Chauhan, C.J.)

(Rajesh Shankar, J.)

N.A.F.R.

Sharda/-