

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 3684 of 2020

.....
Sri Badri Narayan Pandey S/o Sri Ram Kailash Pandey, R/o
Gandhi Nagar, PO- Kanyapur, P.S-AsanSole (North), Distt-
Paschim Burdawan, West Bengal, Pin 713341

..... Petitioner (s)

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O. & P.S. Hajipur, District-Hajipur, Bihar, PIN Code-844101.
2. Director General of RPF, Rail Bhawan, New Delhi, PO-PS-Sansad Marg, New Delhi.
3. Principal Chief Security Commissioner, RPSF, FHQ, Daya Basti, P.O -Daya Basti, P.S.- Sarai Rohila, New Delhi.
4. Principal Chief Medical Director, East Central Railway, Hajipur, P.O& P.S-Hajipur, Dist-Hajipur, Bihar Pin Code-844101.
5. Divisional Railway Manager East-Central Railway, Dhanbad, P.O&P.S.-Hirapur, District-Dhanbad, Pin Code-826001.
6. Chief Medical Superintendent, East-Central Railway, Dhanbad, P.O& P.S-Hirapur, Dist- Dhanbad, Jharkhand - 826001.
7. Sr Divisional Personnel Officer, East-Central Railway, Dhanbad, PO-P.S.- Hirapur, District-Dhanbad, Jharkhand - 826001.
8. Commanding Officer, 10 BN/RPSF/EC Railway, Dhanbad, P.O&P.S.-Hirapur, District-Dhanbad, Jharkhand, Pin- 826001.
9. Adjutant, 10 BN, RPSF, Dhanbad, P.O& P.S-Hirapur, District- Dhanbad, Jharkhand ,826001.

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : Mr. Sakaldeo Singh, Adv
Mr. Rabindra Prasad, Adv.
For the Respondent(s) : Ms. Leena Mukherjee, C.G.C.
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C.A.V. ON 29/01/2026

PRONOUNCED ON:02/04/2026

1. Heard learned counsel for the parties.

2. The relief sought by the petitioner is reproduced as under:-

- (i)** That through the instant writ application, the petitioner prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of Mandamus, Commanding and directing upon the respondents, Particularly the respondent no.6 i.e. Chief Medical Superintendent, East -Central Railway Dhanbad to arrange the Constitution of Medical Board, by himself and if it is not within his competency, then by the Respondent no.4 i.e. Principal Chief Medical Director, East Central Railway, Hajipur by moving the matter before him for remedial Examination of the petitioner to find out the unfitness or fitness of the petitioner in B2 and below Medical Categories of Job in Railway, as the petitioner was found not fit for any job even under B2 and below Medical Categories of the Posts by the three members Screening Committee, Comprising of Senior Divisional Medical Officer, Surgery /East- Central Railway, Dhanbad, Commanding Officer, 10BN/RPSF/East-Central Railway, Dhanbad and Senior Divisional Personnel Officer, East-Central Railway, Dhanbad during Conduction of a Screening test of the petitioner on 7/3/19 and accordingly the screening Committee vide recommendation dated 7/3/2019 over the screening Sheet called for and demanded re-medical examination of the petitioner on non fitness of the petitioner for B2 and below Medical category of the post and on the basis of the same recommendation dated 7/3/19 of the screening Committee having approval of Divisional Railway Manager , ECR, DHN ,the Senior Divisional Personnel Officer , East Central Railway Communicated the said recommendation to the Chief Medical Superintendent, East-Central Railway, Dhanbad (Respondent No-6) , Vide his letter no E/MED/DECATG/ABSORPTION/ 18 dt 18.3.19 (Annexure-2 Series) demanding Constitution of Medical Board by the Medical Department of the Railway for remedial Examination of the petitioner on the unfitness or fitness for the Job which was neglected by the Chief Medical Superintendent , ECR, Dhanbad in violation of Railway Rules and in violation of the letter dated 18/3/2019 of the Sr DPO/ECR/DHN (Respondent-7) in a most unreasonable and illegal way.
- (ii)** Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of certiorari for quashing of the unreasonable and unwanted instructions as contained in the letter no. H/Conf/MBD/BNP/19 dt 26/7/2019 by CMS/ECR/DHN to Adjutant (Annexure-9) with copy to PCMD/ECR/HJP and

Sr DPO/ ECR/DHN that the information has been given on 27/4/2019 for submission of appeal for remedical examination of the petitioner to PCMD/ECR/HJP through the department as when the recommendation of the Screening Committee dated 7/3/19 had already been Communicated to the CMS/ECR/DHN vide Senior DPO/ECR/DHN'S letter dated 18/3/19 for arranging Constitution of Medical Board for remedical Examination of the petitioner on the fitness or unfitness in B2 and below post, it was not at all desirable on the part of CMS/ECR/DHN to inform on 27/4/19 to RPSF Department or to Sr DPO/ECR/DHN for making appeal unwantedly ,out of way in belated stage as it was the duty of the CMS/ECR/DHN to write to PCMD/ECR/HJP for constitution of Medical Board for Remedical examination of the petitioner in Consonance to the letter dated 18/3/19 of the SR DPO /ECR/DHN which was neglected unreasonably in injury to the petitioner and personnel department of the Railway.

(iii) Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of certiorari for quashing of the letter dated 30.8.19 written by the Addl CMD / (MS) ECR/HJP on behalf of PCMD/ECR/HJP to CO/10BN/RPSF/DHN (Annexure-6) whereby it was unreasonably stated that the appeal attached from the party for Remedical Examination not within the stipulated period and so no medical examination was ordered by the competent authority which is in violation of the recommendation dated 07/3/19 of the screening committee and in violation of the letter dated 18/3/19 of the Sr DPO/ECR/DHN to CMS/ECR/DHN as when the unwanted appeal from the party is demanded or extracted or forwarded late by the department, how the same appeal shall be in stipulated period.

(iv) Further prays for the issuance of an appropriate writ(s) /Order(s) / direction(s) or a writ in the nature of 'Certiorari " for quashing of the letter no E/MED Decata/ Absorption /2019 dt 9/12/19 issued by the Sr DPO/ECR/DHN (Annexure-12) whereby the petitioner was stated to have been screened by the screening committee on 4/12/19 and was found fit for the alternative post of Tech-1/ Power House in Electrical (G) /Department of the Railway at Dhanbad as this finding of fitness in B2 and below category of post by the screening committee on 4/12/19 is in falsification and contradiction of the earlier finding dated 07/03/19 of the earlier screening committee in that the screening committee reported the petitioner not fit even for B2 and below Medical Category of the post and so the said screening committee earlier demanded remedical examination of the petitioner from the medical department of the Railway and without being medically examined ,

the petitioner cannot be said illegally in reverse by the screening committee to be fit for the Tech-1/Power House Post in Electrical Department as this finding of fitness by screening committee vide letter dated 9/12/19 of the DPO /ECR/DHN/ is in falsification or in reversal of the earlier finding dated 7/3/19 of the screening committee without assigning any fresh reason for such differing with the earlier decision of unfitness and earlier medical examination need for the petitioner

(v) *Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of Certiorari for quashing the order dated 3/1/20 of the Commanding Officer 10 BN, RPSF/DHN whereby the petitioner was stated to be as Stand Relieved from 10 BN RPSF/DHN (Annexure-15) for alternative job of Tech-I/Power House in electrical Department by making false allegation of not taking of movement order for report to electrical Department from RPSF where as the fact is that the petitioner was not given with any movement order on 2/1/20 Or 3/1/20 during sickness and the petitioner was sick from 2/3-1/20 and was admitted in the Railway Hospital at ASN from 3/1/20 and is sick by now.*

(vi) *Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of Mandamus, Commanding and directing upon the respondents particularly the respondent no 6 & 3 to accept the representations of the petitioner for Voluntary retirement on medical ground on decategorisation from B1 Post to B2 and below post (Annexure-7 Series) by providing a Job of Railway to the Son /Ward of the petitioner which is permissible by Railway Rule and so many RPSF personals in similar situation on medical Decategorisation from B1 Category of Post to B2 and below post were given voluntary retirement by providing a job to their Wards or sons but the petitioner is being discriminated by saying that the volunteer retirement cannot be allowed on condition of providing job to son of the petitioner where as other were allowed by the RPSF authority and Railway authority on such conditional demand of voluntary retirement on medical ground on condition of a job to their wards /son.*

(vii) *Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of Certiorari for quashing the letter dated 21/12/2019 issued by Commanding Officer /10BN/RPSF/DHN (Annexure-8) whereby and thereunder it was stated that the request for conditional voluntary retirement cannot be accepted and that the request for voluntary retirement unconditionally can be accepted as the providing of job to a ward of the employee on voluntary retirement on medical ground of Decategorization is permissible by rule and so such demand cannot be said to be conditional and*

many of the RPSF employees who demanded such conditional retirement were allowed but the petitioner is being discriminated.

(viii) Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of Mandamas, commanding and directing upon the respondents particularly the respondent no.01, i.e. Sr. Commanding Officer, 10 BN, RPSF, ECR, DHN for the issue of sick memo (G8) and declaration in favour of the petitioner as per the demand for the same made by Sr. Divisional Medical Officer, OPD/East -Central Railway, Dhanbad vide his letter no H/Misc/OPD 2020 dt 24.9.20 (Annexure-20) whereby the Senior Divisional Medical Officer, ECR/DHN wrote to a Commanding Officer, 10 BN RPSF, Dhanbad that the petitioner was in the sicklist at Railway Hospital, ASN from 03.01.2020 to 21.09.2020 and was made fit to travel from Asansole to Dhanbad vide medical certificate no 761358 dated 21/9/2020 issued by the Additional Chief Medical Superintendent, Divisional Railway Hospital Asansol and that at present the petitioner cannot be given fit to join duty as the fitness will be decided by the Medical Board, so the sick memo (G-8) and declaration be issued by CO/10BN /RPSF/Dhanbad for the petitioner /Assistant Sub-Inspector /RPSF/DHN to keep him in the sick list at Divisional Railway Hospital, Dhanbad but the sick memo (G-8) and declaration as demanded by the Sr DMO/ECR/DHN has not yet been issued by the CO/10BN/RPSF/DHN for keeping the petitioner in sick list and for medical examination by a board on fitness in violation of sick rule and law of the department and in violation of demand letter dated 24/9/20 of the Sr DMO/OPD/ECR/DHN in most illegal and unreasonable way for harrasment to the petitioner causing non payment of salary to the petitioner from 3/1/20 to 22/9/20 and from 22/9/2020 up till now resulting in starvation to the entire family

(ix) Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) or a writ in the nature of Mandamas, Commanding and directing upon the respondents to arrange payment of the salary for the entire sick period on Railway from 03/01/20 to 21.09.2020 and from 22/9/20 to by now against the sick leave due of the petitioner in the department as per disability act also and on medical decatecorigation and physical handicapped ground under Disability Act on Railway train accidental injury.

(x) Further prays for the issuance of an appropriate writ(s)/order(s)/direction(s) as your Lordships may deem fit and proper for doing conscionable justice to the petitioner in the facts and circumstances of the case.

3. The brief facts of the case as per the pleadings are that the petitioner was selected for the post of constable in 1990, and after undergoing rigorous training, the petitioner was appointed as constable in the Railway Protection Special Force (RPSF) in 1993. The petitioner was promoted to the post of Assistant Sub-Inspector in the year 2017.

On 27/6/2018, while returning from leave, the petitioner suffered a major accident, as he fell from a train near the Bhagalpur Railway Station. The petitioner suffered several cuts, fractures and injuries on his head, ears, hand, palm and fingers.

He underwent treatment in several hospitals from 27/6/2018 to 24/1/2019. During his treatment at Dhanbad Railway Hospital, the petitioner was examined by a medical board, which recommended that the petitioner was unfit for discharging his current duties in the B-1 category but was fit for duty in the medically decategorized category of B2 and below category posts.

4. The case of the petitioner is that he was to be appointed to a sedentary post not involving train escorting duty, weightlifting, prolonged standing or outstation shifting duty. As a matter of fact, a supernumerary post was created for the petitioner, where he was to work until such time till he was absorbed in a suitable/alternative post. To ascertain

such a post, a three-member committee was constituted. The petitioner appeared before the committee on 7/3/2019, but the petitioner was not found fit for any sedentary job, and a recommendation was made for a re-medical examination.

5. According to the petitioner, though there was no medical examination required, he was told by his supervising officer for attending the meeting of the screening committee. The petitioner's contention is that even though he was declared unfit for any alternative posting, his commandant made him file representations for an alternative job.

When no decision was taken, the petitioner filed an application for a re-medical examination on 5/8/2019. However, the re-medical examination was also not conducted. When the petitioner was not made to join any other post, he made several representations, praying that he may either be re-examined or be allowed to take voluntary retirement subject to his son being given a compassionate appointment. The dates of the representation are detailed out in page 41 of the writ petition.

6. Ld. Counsel for the petitioner has vehemently argued that the petitioner was certified to be 88% disabled by the

Medical Board of the Government District Hospital, Asansol, and as such his rights under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, should be fully protected.

7. It has been further submitted that the petitioner was later appointed and absorbed to the post of “*Tech 1/power house*” on 3/1/2020; which was completely illegal and was by way of an afterthought, as once the petitioner was declared unfit for any post, he ought not to have been appointed; rather, permission should have been given to him to voluntarily retire, and also a job should have been given to his son on compassionate grounds.

Ld. Counsel accordingly contended that, the order dated 2/1/2020, by which the petitioner stood relieved and vide order dated 03.03.2020 he was absorbed in the alternative post of Tech 1/powerhouse, was illegal and arbitrary.

8. *Per contra*, Ld. Central Government Counsel appearing for the respondents has denied the averments made in the writ petition. It has been submitted that a three-member committee was constituted to examine the petitioner in Dhanbad. The committee after examining the petitioner opined that the petitioner is suited for appointment at a sedentary post, and a certificate to this effect was issued on

24/1/2019. She has also submitted that the letter addressed to the petitioner categorically stated that the petitioner may file an appeal against the order within a period of 7 (seven) days. However, no appeal was preferred by the petitioner.

9. Thereafter, the petitioner was appointed to an alternative post of Tech-I/Power House in Electrical(G)/Department (other than RPSF department). The order with effect to the same was issued on 9/12/2019. The relieving order was issued by the Railway Board on 19/12/2019, and a movement order dated 2/1/2020 was also issued to the petitioner.

However, the petitioner, with an intent to get his son appointed on compassionate grounds, refused to receive the movement order. In para-10 of the counter-affidavit, the respondents have categorically stated that even when DI/HQ, 10/BN/RPSF/DHN called the petitioner to his chamber, he refused to accept the movement order. The petitioner thereafter left the battalion campus and could not be traced in the barracks or the surrounding areas, and his mobile number was also switched off.

Accordingly, the petitioner was marked as 'STAND RELIEVED' on 3/1/2020, and an intimation was sent to all the departments. An absent report was also lodged in the

daily diary. The relieving order was sent to the petitioner through registered post on 3/1/2020 which was returned on 14/1/2020 with marked as 'left'.

10. On 5/1/2020, the respondents were informed that the petitioner was under treatment at the Divisional Hospital, Asansol. Ld. Counsel has further submitted that the petitioner's application for conditional voluntary retirement was rejected on 19/12/2019. Another letter, dated 13/1/2020, was received by respondent authorities wherein he conveyed his willingness to voluntarily retire. The said letter was forwarded to the Railway Board's office. In reply to this, the Railway Board, vide letter dated 20/2/2020 directed the petitioner to seek retirement from his new place of post, as he was already relieved from the rolls of RPSF.

This letter was duly served upon the petitioner's wife on 5/6/2020. Upon service of this letter, the petitioner's wife requested for issuance of a G-8/sick memo. A letter was issued by IPF/East Post, Asansol/ER, giving G-8/Memo/sick memo in favour of the petitioner, with advice that he may join his place of posting for further duty, regularization, sick leave, salary, etc. However, the petitioner never reported to his place of duty.

11. Ld. Central Government Counsel has contended that this writ petition has been filed by the petitioner to escape

his own delinquency. The refusal by the petitioner to accept his relieving and movement orders and further failure to join his place of posting itself is a misconduct and should not be taken lightly. The petitioner deliberately did not choose to accept his relieving and join a new place of posting, solely with the intent to strong-arm the petitioner into accepting his application of voluntary retirement with a condition that his son be appointed on a compassionate ground.

12. Learned counsel for the petitioner has responded the aforesaid argument, stating that the contentions of the respondents are factually incorrect and the petitioner was never served with any movement/relieving order.

13. Having heard the parties at length, the following issues are framed:-

- a. Whether the petitioner's appointment to the alternative post of Tech 1/Power House was in accordance with law ?*
- b. Whether the petitioner's request for voluntary retirement could be accepted in light of the fact that he failed to join his posting ?*

14. The first issue pertains to the appointment of the petitioner at his new place of posting, i.e., Tech 1/Power House. The absorption/appointment of the petitioner to alternative post, in case of medical recategorization, is governed by para 1304 of Chapter XIII of the Indian Railway

Establishment Manual Volume-I. The same is quoted below:

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“1304. Disabled Medically decategorised staff to be absorbed in posts they can adequately fill: - *In the matter of absorption of disabled/medically decategorised staff in alternative posts, Railway administrations should take care to ensure that the alternative employment offered is only in posts which the staff can adequately fill and as far as possible should broadly be in allied categories where their background and experience in earlier posts could be utilised. While finding alternative posts for absorption of disabled/medically decategorised staff, the Railway Administration should ensure that the interests of other staff in service are not adversely affected and no reversion of any officiating Railway servant is made to absorb the disabled/medically decategorised staff. For this purpose, attempts should be made to absorb the disabled/medically decategorised Railway servant not only within the Unit/Division or Department, but in other Unit/Division or Department.”*

15. The main contention of the petitioner is that, albeit the recommendation of the medical board, no review of the medical examination was conducted. Further, in para-14 of the writ petition, the petitioner has stated that he was not found fit for any job by the screening committee.

16. This fact has been specifically controverted by the respondent in para 27 of the counter affidavit by stating that the petitioner was not found to be fit for appointment to any post in RPSF, and accordingly the petitioner was asked to make a representation for appointment in another department. The respondent has further clarified that the remark with respect to the review was made by the respondents on account of the fact that no post was available in RPSF.

17. The fact remains that the only medical report on record of this Court is Annexure-1 (at Page 95 of the writ petition), which clearly states that the petitioner was fit for appointment to a sedentary job. This was never appealed by the petitioner. The petitioner has not produced any document to show that he was not fit to be appointed to any post in any division or department of the railways. To the contrary, the respondents have brought on record documents to show that the appointment of the petitioner was made to the post of Tech 1/Power House.

18. This Court is unable to appreciate the contention of the petitioner that no review was conducted. Once the petitioner himself accepts that no further medical examination was required, he is estopped from contending that in the absence of the further medical examination, he could not have been appointed to any other post.

19. A perusal of the applicable rule quoted above indicates that it was the respondent's duty to ensure that the petitioner is appointed/absorbed to a suitable post irrespective of the petitioner's original unit, division or department. This Court has no occasion to doubt the clarification given by the respondents. In fact, the bona fide approach of the respondents with respect to the petitioner is apparent from the fact that the petitioner was issued a G-

8/sick memo with an advisory that the petitioner may join his place of posting for further duty, regularisation, sick leave, salary, etc.

Hence, the first issue is decided against the petitioner, holding that the appointment of the petitioner to the alternative post of Tech 1/Power House was in accordance with law.

20. The next issue is with respect to the acceptance of the voluntary retirement of the petitioner. It is not in dispute that in cases wherein medical necessities arise, the voluntary retirement is available to the employees of railways if no alternative post is found. However, in the case at hand, one important aspect is worth taking note of. The petitioner, admittedly, never joined his new place of posting; rather made requests for voluntary retirement, which was conditional on the appointment of the petitioner's son on a compassionate ground.

21. After careful consideration of the pleadings of the parties and the rival contention, it is evident that the respondents had taken all possible efforts to serve the relieving/movement order to the petitioner. Once the petitioner declined to accept the same personally, the same was sent to him at his residential address through

registered post. However, the same was returned to the respondents.

Further, upon receipt of information from the petitioner that he was admitted in the hospital, the notice was served upon his wife. The wife of the petitioner, upon receipt of this information, requested for issuance of the G-8/sick memo. The concerned facts clearly show that the petitioner had knowledge about his relieving and his new place of appointment. Despite the same, the petitioner did not join.

22. The Hon'ble Supreme Court in the case of ***The Tamil Nadu Agricultural University & Anr. v. R.Agila (Special Leave to Appeal (C) No(s).13070-13075/2022 dated 20.08.2024***), highlighted their condemnation with respect to those employees not joining their new place of joining when a legal or administrative battle was underway. The relevant portion of the judgment is underway: -

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“ At the outset, we deem it important to highlight that our chief condemnation in such matters is not to the said challenge to transfer orders, rather the act of refusing to join the new place of posting while the legal or administrative battle is underway.”

23. Further, Para 1303 of Chapter XIII of the Indian Railway Establishment Manual Volume-I makes it clear that once an employee is found to be unfit for his post, he should immediately cease working at the post. Further, it is

trite law that once relieved for a new post, all claims from the parent department cease.

24. In the case at hand, the failure on the part of the petitioner to join his place of posting cannot be condoned. It seems that the petitioner not only declined to join his new place of posting but also proactively sought to evade receipt of notice with respect to the same.

Even if it is accepted that the petitioner had filed an application for voluntary retirement from service, the petitioner ought to have joined his new place of posting and thereafter have continued raising any grievance which he may have had with the respondents.

25. Having regards to the above, this Court finds no infirmity in the decision taken by the respondents to reject the application of the petitioner for the reason that the petitioner failed to join his new place of posting.

26. Accordingly, the instant writ petition stands dismissed. Pending IAs, if any, are also closed. No order as to cost.

(Deepak Roshan, J.)

Dated:02/04/2026
Amardeep/
AFR

Uploaded On
06.04.2026