

(2020) 08 PAT CK 0090

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13047 Of 2018

Union Of India And Ors

APPELLANT

Vs

Ram Naresh Mishra

RESPONDENT

Date of Decision : 31-08-2020

Acts Referred:

Citation : (2020) 08 PAT CK 0090

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Raj Kamal, Jayant Kumar Karan

Final Decision : Dismissed

Judgement

Heard the parties.

Petitioner has prayed for following relief:-

â??The present writ application is being filed on behalf of petitioners for quashing the order dated 22.11.2017 passed in O.A. No.050/000646/2014

(Ram Naresh Mishra Vs. the Union of India & Ors.) passed by the Central Administrative Tribunal, Patna Bench, whereby and whereunder the

CAT, Patna Bench has allowed the OA.â??

Briefly stated the facts of the case is that respondent employee was engaged as casual labourer in RMS NB Division, Barauni on 26.3.1983 and

subsequently he was granted temporary status along with other casual labourers vide Superintendent RMS NB Dn., Samastipur Memo No.84 dated

28.6.1991 with effect from 29.11.1989, however, the temporary status granted to respondent was subsequently withdrawn by order dated 31.5.1995

as requirement of duty 8 hours per day for 240 days in a year for grant of temporary status was not fulfilled.

Respondent was appointed as temporary Mail-man at Sub Record Office, Barauni in fixed pay scale vide order dated 19.5.1987 and vide order dated

28.6.1991, he was conferred temporary status with effect from 29.11.1989 and grievance of the respondent employee before tribunal was that his

services has not been regularized although similarly placed other employees have been regularized on group D post and some of them have even been promoted on Group C post.

One similarly placed employee Ashwini Kumar Singh services has been regularized and has been appointed as MTS in a fixed pay scale vide order

dated 10.4.2014 although said employee was appointed after him and was granted temporary status with effect from 9.11.1989 as granted to the respondent employee.

The tribunal has held that grant of temporary status to respondent employee was withdrawn on 31.5.1995, however, it is an admitted fact that he is in

continuous service since 1983 for last more than 30 years. It has been further held that after 29.11.1989, applicant had rendered service 8 hours per

day for 240 days in a year for the period from 1989 to 1995, as such, the respondent employee had completed 3 years of service with temporary status

and became eligible for consideration of regularization on availability of vacancy.

The tribunal has further found that one similarly placed employee Ashwini Kumar Singh had filed O.A. 744 of 2006 in whose case also, authorities had

withdrawn temporary status granted to him and by order dated 20.3.2012 and railway authorities were directed to restore his temporary status and to

consider his regularization subject to his eligibility and availability of vacancy when his turn comes and pursuant thereto services of said Ashwini

Kumar Singh has been regularized and, accordingly, the tribunal found that as per norms of department of post, respondent employee is also entitled

for grant of temporary status and he is also entitled for same benefit which was extended to said Ashwini Kumar Singh and has disposed of O.A. with

following direction:

â??â??â??â??In view of what is stated hereinabove and also taking note of the overall facts and circumstances of the case on hand, in the interest of

equity, fair play, good conscience, we direct the respondent to pass order for restoration of T.S. to the applicant and to consider regularisation

separately in accordance with law, subject to eligibility and availability of

vacancy, when the turn of the applicant comes.â??

After hearing counsel for the parties and perusing the judgment and order passed by the Central Administrative Tribunal, this Court does not find any error or infirmity in the order passed by the Central Administrative Tribunal, Patna Bench Patna, requiring any interference of this court in its writ jurisdiction and accordingly writ petition is dismissed.