



2025 IN

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.....OF 2025
(ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 17844 OF 2023)**

UNION OF INDIA & ORS.

...APPELLANT(S)

VERSUS

ALOK KUMAR

...RESPONDENT(S)

J U D G M E N T

VIJAY BISHNOI, J.

Leave granted.

2. This appeal arises from the judgment and order dated 06.02.2023 passed by the High Court of Judicature at Patna in Civil Writ Jurisdiction Case No. 12755 of 2021 (“**impugned**

judgment") by which the High Court allowed the Writ Petition filed by the Respondent herein.

FACTUAL MATRIX

3. The Railway Recruitment Board ("**RRB**") established in various parts of India is the authority conducting recruitment for various Group 'C' non-gazetted posts of technical and non-technical categories in the Railways including the post of a Senior Section Engineer ("**SSE**"). The recruitment of the Group 'C' non-gazetted posts is governed by the Master Circular No.29 dated 28.06.1991 ("**Master Circular**"). The relevant provisions of the Master Circular are reproduced hereunder:

"2. The initial period of training, wherever prescribed for non-gazetted direct recruits in various categories of Group 'C' posts, is an important pre-requisite to be successfully completed, before a trainee is absorbed in the post for which he has been recruited. It is, therefore, not desirable to curtail the initial period of training. [...]"

xxx

3. The qualifying examination at the end of initial training of directly recruited non-gazetted staff through the Railway Service Commissions (now Railway Recruitment Board) must necessarily be a written test.

3.1. The candidates should be warned, at the time of their recruitment that their retention in service will be dependent on their successfully completing the training and passing the

Clause 5 of the Master Circular says that the duration of training period and the syllabus for the various categories of Group 'C' staff are provided in Chapter I, Section B of the Indian Railway Establishment Manual, 1989 ("**Railway Manual**"). In the said Railway Manual, the duration of training period has been mentioned for each category of Group 'C' posts and for the post of SSE, the duration of training is provided as one year, i.e. 52 weeks. Further, Para 103 of Chapter I, Section B of the Railway Manual provides definitions of, *inter alia*, an "**apprentice**" or a "**trainee**" as well as the term "**direct recruitment**" which read as under:

"(iv) An "apprentice" or a "trainee" means a person undergoing training with a view to employment in railway service, who draws pay, leave salary, subsistence allowance or stipend during such training but is not employed in or against a substantive vacancy in the cadre of a branch of deptt. On satisfactory completion of his training he is eligible for appointment of probation in a substantive vacancy but no guarantee of such appointment is given.

(v) "Direct recruitment" means the recruitment to the Group 'C' service of any person not already in the service of the railways or any person in railway service who may be permitted to apply for appointment subject to possession of requisite qualifications along with outsiders according to the procedure laid down for recruitment."

In the Railway Manual, it has also been specified that the training period for any specific post is to be decided by Zonal Railways and pursuant to that, the Ministry of Railways *vide* RBE No.11/2010 dated 15.01.2010 published the Revised Training Module.

4. The Centralized Employment Notice No.02/2014 dated 20.09.2014 (“**Employment Notice**”) was issued by the RRB, Muzaffarpur inviting applications from eligible Indian Nationals for, *inter alia*, the post of SSE, whereby the suitable candidates were to be recruited by way of a written examination conducted by the RRB. In the said advertisement, it was specifically mentioned that the selected candidates will have to undergo training wherever prescribed for the posts. The said condition is reproduced hereunder:

“1.10. Selected candidates will have to undergo training wherever training is prescribed for the post.”

5. Pursuant to the aforesaid Employment Notice, the Respondent appeared in the written examination along with other

candidates and on being successful, he was offered provisional appointment *vide* letter dated 14.09.2016 in Group 'C' category for the post of Apprentice/Trainee SSE (Electrical/Drawing) against the direct recruitment quota and the Respondent was allotted to the Construction Organization in the East Central Railway, Mahendrughat, Patna. The said provisional appointment letter issued to the Respondent clarified that he would be eligible for retention in service subject to successful completion of training and if his performance in the field of training during the probation period was found to be unsatisfactory, his services were liable to be terminated. The said condition specified in the provisional appointment letter issued to the Respondent is reproduced hereunder:

“ii. You will be on probation for a period of 02 (two) years. If your performance in the field of training during probation period is found unsatisfactory, your service is liable to be terminated.”

[Emphasis

Supplied]

6. It is not in dispute that the Respondent has completed 46 weeks of training out of the 52-week training prescribed for SSEs. On 06.11.2017, the Respondent, along with two other

trainees, who were deputed to the Construction Organization, was sent to the Zonal Rail Training Institute, Muzaffarpur (**“ZRTI”**) for a three-week training in General and Subsidiary Rules (**“G&SR”**) from 07.11.2017 to 27.11.2017. After the completion of the said training, an examination was conducted and as per the result of the same, which was published on 26.12.2017, the Respondent had failed to clear the said examination. It is pertinent to note that the other two trainees, who were sent for training along with the Respondent, had cleared the examination with 31 other trainees. As per the various Circulars issued by the Appellants from time to time, any trainees belonging to General and OBC categories, who fail to clear such examination in the first chance, can be given a second chance subject to non-payment of stipend. The Respondent, being an OBC category trainee, requested the Chief Administrative Officer (Construction), East Central Railway, Mahendrughat, Patna, to allow him to undertake a second attempt to clear the G&SR training without payment of stipend. The authority concerned allowed the Respondent to undergo a

second round of training from 06.03.2018 to 26.03.2018. It is evident from the result published on 26.04.2018 that the Respondent yet again failed to clear the examination held at the end of the G&SR training course.

7. Consequently, his services were terminated *vide* Office Order No. NG/06/2019 dated 04.01.2019 issued by the Senior Personnel Officer (Construction), East Central Railway, Mahendrughat, Patna. Further, *vide* letter dated 26.02.2019, the Respondent was also directed to refund the stipend amount of Rs.1,53,354/-, which was disbursed to him for the second training attempt due to administrative inadvertence, even when, while allowing the second attempt to the Respondent to clear the G&SR training, it was specified that he would not be able to draw any stipend.

8. Being aggrieved with the termination order dated 04.01.2019 and the order for recovery of stipend dated 26.02.2019, the Respondent approached the Central Administrative Tribunal, Patna Bench (**“CAT, Patna”**) by way of an Original Application No. 50/479/2019 (**“OA”**) mainly on the ground

that four other apprentices/trainees namely, Rohit Raj, Narendra Meena, Navneet Kumar and Nawal Kishore Jaiswal, who were selected along with him, had been granted permanent posting after completion of only 46 weeks of training, without undergoing G&SR training at ZRTI, unlike the Respondent. The CAT, Patna *vide* order dated 30.07.2019 dismissed the said OA and upheld the order of termination of the Respondent dated 04.01.2019 with an observation that the Appellants/Department may sympathetically consider any request made by the Respondent herein for waiver of repayment of stipend already paid to him while undergoing training for the G&SR course for the second time.

- 8.1 The CAT, Patna rejected the Respondent's allegations of discrimination amongst similarly placed persons, observing that two other trainees, apart from the Respondent, who had been allotted to the Construction Organization, were also sent for training at ZRTI. Accordingly, it could not be accepted that the Respondent alone was chosen for a special punitive training.

- 8.2 Taking note of the fact that all the candidates except one passed the requisite exam in the first attempt and in the second attempt, all the candidates except two cleared the exam, the CAT, Patna concluded that the training/test was not particularly taxing and that by no stretch of imagination, could it be inferred that the Respondent was sent for this training with any prior intention to make him fail.
- 8.3 Further, the Tribunal observed that the Respondent had tried to mislead it by repeatedly mentioning the completion of “**Field Training**” as a mandatory requirement for appointment, while the provisional appointment letter referred to the Respondent’s performance in the “**Field of Training**” during the probation period.
9. The Respondent filed CWJC No.19255 of 2019 before the High Court, challenging Order dated 30.07.2019. However, the said case was dismissed as withdrawn *vide* order dated 17.09.2019 with liberty to make a representation before the Railway Board as requested by the Counsel for the Respondent.

10. Thereafter, the Respondent moved Review Application No. 50/51/2019 before the CAT, Patna, seeking recalling of the Order dated 30.07.2019. This application also came to be dismissed *vide* order dated 25.10.2019 on the ground of there being no error apparent on the face of the record or mistake of fact in the decision. Further, the Miscellaneous Application No. 50/422/2019 filed by the Respondent was also rejected on similar grounds *vide* order dated 30.01.2020.

11. Aggrieved by the foregoing, the Respondent filed CWJC No. 12755 of 2021 before the High Court assailing orders dated 30.07.2019, 25.10.2019 and 30.01.2020 passed by the CAT, Patna. The High Court framed the following issue:

“2. Core issue is that whether the petitioner is required to pass any prescribed departmental examination for the post of Senior Section Engineer or not?”

12. The Appellants herein were directed by the High Court on 23.01.2023 to furnish a personal affidavit as regards the existence of any mandate for such examination. Consequently, the Appellants filed a personal affidavit dated

02.02.2023, wherein they relied on the Master Circular. Upon consideration of the same, the High Court *vide* impugned judgment came to the conclusion that the Appellants had not prescribed any departmental examination for the purpose of conferring permanent status against the post of SSE. As a result, the Writ Petition was allowed and termination orders dated 04.01.2019 and 26.02.2019 were set aside. The OA filed by the Respondent stood allowed with the further direction to the Appellants to extend all service and monetary benefits which were due to the Respondent within a period of four months from the date of receipt of this order.

SUBMISSION ON BEHALF OF THE APPELLANTS

13. Assailing the impugned judgment, Ms. Poornima Singh, learned Counsel appearing for the Appellants, has argued that the recruitment of the Group 'C' non-gazetted posts is governed by the Master Circular and in Clause 2 of the said Circular, it is clearly specified that the initial period of training, wherever prescribed for the various categories of Group 'C' posts, is an important prerequisite to be successfully fulfilled before absorption of a trainee in the post

for which he/she has been recruited. Further, Clause 3 specifies that the qualifying examination at the end of the initial training of the directly recruited non-gazetted staff must necessarily be a written test. Clause 3.1 says that the candidates should be warned at the time of their recruitment that their retention in service will be dependent upon them successfully completing the training and passing the requisite test.

It was further submitted that the Railways *vide* RBE No. 11/2010 dated 15.01.2010 had published the Revised Training Module for the 52-week training programme. The said 52-week training encompassed 8 different modules, and the candidates had to go for each and every module for a specific period/weeks. In the event that a candidate failed to clear the training in any module in the first attempt, he/she could be provided a second attempt without stipend if the candidate belongs to General and OBC categories. In cases of candidates belonging to SC/ST categories, a second attempt can be provided with stipend and such candidates are also entitled to a third chance to clear the training without

stipend. It was further submitted by the learned Counsel that in the Employment Notice as well, it had been clarified that the selected candidates will have to undergo training wherever training has been prescribed for the posts and in the provisional appointment letter issued to the Respondent, again, it was clarified that during the probation period of two years, if his performance in the field of training was found unsatisfactory, his services were liable to be terminated.

13.1 Ms. Singh has argued that from a combined reading of the provisions of the Master Circular, the Employment Notice and the provisional appointment letter, it is apparent that after completion of training, every selected candidate is required to undertake an examination to ascertain whether he/she has successfully completed the training or not. The learned Counsel has contended that it is not in dispute that the Respondent had failed to clear the G&SR training despite being provided two chances, and therefore, there was no illegality in terminating his services as per the provisions of the Master Circular governing the field. It has further been argued that in the impugned judgment, the High Court has failed to appreciate

the said position and erred in allowing the Writ Petition filed by the Respondent.

14. The learned Counsel for the Appellants has further argued that the learned Single Judge has erred in observing that the Appellants have not prescribed any “departmental examination” for the purpose of giving permanent status against the post of SSE. It was argued that as a matter of fact, no such “departmental examinations” are conducted for the trainees and only the “training examinations” are being conducted and the same is evident from the results which have been published after conducting such “training examination”, wherein the Respondent appeared twice but failed. It was argued that the said results were placed on record before the Writ Court in the counter-affidavit to the Writ Petition, but the learned Single Judge had failed to take note of the same and recorded an erroneous finding that the Appellants had not prescribed any “departmental examination” for the purpose of giving permanent status against the post of SSE. The learned Counsel has also submitted that it is a well-known fact that the “departmental examinations” are only held in cases of

promotion and not in the cases of direct recruitment/appointment.

15. The learned Counsel for the Appellants has further submitted that there is no illegality in the action of the Appellants in issuing the recovery notice for the stipend amount of Rs.1,53,354/- because while giving a second chance to the Respondent to clear the G&SR training, it was clarified that the Respondent will not be entitled to any stipend but the same was paid to him during the second training due to administrative inadvertence.

15.1 The learned Counsel for the Appellants has finally contended that the CAT, Patna, after examining each and every aspect of the matter, had rightly dismissed the OA filed on behalf of the Respondent, and the High Court had illegally interfered with the order of the CAT, Patna. It was, therefore, prayed that the impugned judgment be set aside and the Writ Petition filed by the Respondent before the High Court may kindly be dismissed.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

16. *Per contra*, Mr. Amit Sharma, the learned Counsel appearing for the Respondent, has submitted that the High Court had not committed any illegality in passing the impugned judgment in the facts and circumstances of this case.

The learned Counsel has contended that the Appellants illegally terminated the services of the Respondent, despite him having successfully completed 46 weeks of training. It was argued that although he had failed to clear the G&SR training, but the fact remained that four other candidates, who were selected with the Respondent, were never sent to undergo the G&SR training and were directly appointed only after completion of 46 weeks of training. It was further argued that the termination order dated 04.01.2019 was highly discriminatory, arbitrary and violative of Articles 14 and 16 of the Constitution and had rightly been set aside by the High Court.

17. The learned Counsel has further submitted that the termination order dated 04.01.2019 was passed in contravention of the terms and conditions of the Revised

Training Module dated 15.01.2010, wherein it was nowhere mentioned that the initial training was to be followed by any “departmental examination” and that any candidate who failed to clear such examination would be rendered ineligible for retention in service. Mr. Sharma has vehemently contended that the Respondent wrongly placed reliance on the Master Circular, which was applicable only to those non-gazetted direct recruits in various categories of Group ‘C’ posts, for whom no specific training module existed. It was therefore contended that there was no merit in the challenge of the Appellants to the impugned judgment passed by the High Court and hence, no grounds for interference have been made out.

ANALYSIS

18. Heard the learned Counsels for both the parties. The undisputed facts culled out from the available material on record are:

18.1 The Master Circular governing the recruitment to non-gazetted Group ‘C’ posts in the Railways clearly provides that

completion of the initial period of training for the non-gazetted direct recruits in various categories of Group 'C' posts is an important prerequisite for the absorption of a trainee in the post for which he/she has been recruited. It further provides that at the end of the initial training of a directly recruited non-gazetted trainee, there must be a written test and the recruited candidates should be warned that their retention will be dependent on them successfully completing the training and passing the requisite test.

18.2 The instruction no. 1.10 of the Employment Notice, under which the Respondent had applied, clearly provided that the selected candidates will have to undergo training wherever it had been prescribed for the concerned post.

18.3 Further, even in the provisional appointment letter issued to the Respondent, it was specifically stipulated that if his performance in the field of training during probation was found unsatisfactory, his services were liable to be terminated.

18.4 The Respondent had completed 46 weeks of training and thereafter, he was sent to undergo the G&SR training of three weeks, initially from 07.11.2017 to 27.11.2017. After

completion of the said training, an examination was conducted, however, he failed to clear the said examination.

18.5 On his request, the Respondent was again sent for the G&SR training from 06.03.2018 to 26.03.2018 with a condition that he will not get any stipend for undertaking the G&SR training for the second time. After completion of the said training, the Respondent appeared in the examination but again failed to clear the said examination.

18.6 The Respondent was not the only one sent for the G&SR training, rather several other candidates were also sent for the said training both when the first time and the second time the Respondent appeared for the G&SR training. All candidates except the Respondent passed the examination when the Respondent appeared for the first time in the said G&SR training. When the Respondent appeared in the examination after availing the second chance to undergo the G&SR training, as many as 34 trainees appeared along with the Respondent and out of which, 31 cleared the examination except the Respondent and two other trainees.

18.7 When the Respondent failed to clear G&SR training in two attempts, the Appellants terminated his service *vide* order dated 04.01.2019 and directed him *vide* order dated 26.02.2019 to refund the stipend amount of Rs.1,53,354/-, which was disbursed to the Respondent while undergoing the G&SR training for the second time.

19. If we go through the above facts, it is clear that the condition of appearing in the written training test for every candidate provisionally appointed as an SSE after clearing the recruitment examination conducted by the RRB is provided in the procedure governing the recruitment of directly recruited non-gazetted Group 'C' posts. The learned Counsel for the Respondent has failed to point out any other rule, circular or provision of law which governs the subject of recruitment of persons to non-gazetted Group 'C' posts. When the procedure for recruitment of SSEs issued through the Master Circular specifically provides for a written test after completion of the initial training period, the High Court has erred in recording a finding that no departmental examination is prescribed for the purpose of conferring permanent status against the post

of SSE. The learned Counsel for the Appellants has rightly pointed out that departmental examinations are conducted only for the purpose of promotions and not for the purpose of recruitment/appointment.

20. We do not find any merit in the submission of the learned Counsel for the Respondent that the Master Circular is not applicable in the case of recruitment to the post of an SSE. The reliance of the learned Counsel for the Respondent on RBE No. 11/2010 dated 15.01.2010, whereby the Revised Training Module for the 52-week training programme was published, is also misplaced. As observed earlier, in the Railway Manual, it has been specifically provided that the training period for any specific post is to be decided by the Zonal Railways and pursuant to the said provision, this Revised Training Module dated 15.01.2010 was issued. In any manner, this Revised Training Module cannot supersede the Master Circular, wherein it was specifically provided that every candidate has to pass the written test after completion of their initial training. Otherwise also, it is difficult to comprehend how, in the absence of any test at the end of the

initial training period, it can be possible to ascertain whether a candidate has acquired sufficient training or not.

21. The provisional appointment of the Respondent as a Trainee SSE was, in fact, only a recruitment and his permanent appointment in service on the post of an SSE was subject to the successful completion of his training. A three-Judge Bench of this Court in ***Prafulla Kumar Swain v. Prakash Chandra Misra***, reported in **(1993) Supp (3) SCC 181**, has defined the meaning of the words “**recruitment**” and “**appointment**” as under:

“29. At this stage, we will proceed to decide as to the meaning and effect of the words “recruitment” and “appointment”. The term “recruitment” connotes and clearly signifies enlistment, acceptance, selection or approval for appointment. Certainly, this is not actual appointment or posting in service. In contradistinction the word “appointment” means an actual act of posting a person to a particular office.

30. Recruitment is just an initial process. That may lead to eventual appointment in the service. But, that cannot tantamount to an appointment. [...]”

[Emphasis Supplied]

The judgment in ***Prafulla Kumar Swain*** (supra) has also been followed by this Court in ***Ashok Ram Parhad v. State of Maharashtra***, reported in **(2023) 18 SCC 768**.

22. The other contention of the learned Counsel for the Respondent that the four trainees namely, Rohit Raj, Narendra Meena, Navneet Kumar and Nawal Kishore Jaiswal, were permanently appointed only after 46 weeks of training and had not completed the 52-week training period is also incorrect. In the counter affidavit to this SLP, the Respondent has stated that he sought an information from the Appellants under the RTI in respect of three trainee SSEs, namely Rohit Raj, Navneet Kumar and Narendra Meena, and he got the information that those trainees were not sent for the training at ZRTI, despite the fact that those three trainees had only completed 46 weeks of training and not the entire 52-week training period. The Respondent has further stated in the counter affidavit that the Respondent was forced to undergo the G&SR training, however, the said three trainees were not. However, from the information supplied by the Appellants in response to the RTI filed by the Respondent, it is more than clear that all the three trainees, regarding whom the Respondent had sought information through RTI, had

completed the 52-week training period before being permanently appointed to the post of SSE.

23. In light of the above discussion, we are of the firm view that when the Respondent had failed to clear the G&SR training twice and as such, had failed to successfully complete the 52-week initial training programme, the Appellants have not committed any illegality in terminating the services of the Respondent, pursuant to the procedure prescribed for the purpose of permanent appointment of SSEs. Resultantly, the impugned judgment passed by the High Court is set aside and the Writ Petition filed by the Respondent is dismissed.

24. It is also to be noted that although while sending the Respondent for the second time to clear the G&SR training, it was clarified that he would not be entitled to any stipend, yet as per the Appellants, the same was paid to the Respondent due to administrative inadvertence. Be that as it may be, it is not the case of the Appellants that the stipend amount was paid to the Respondent due to misrepresentation or fraud, and therefore, we are of the view that in the peculiar circumstances of this case, the said demand raised by the

Appellants against the Respondent for the recovery of the stipend cannot be justified. The same is, therefore, rejected.

25. With these observations, the present appeal is disposed of.

26. Pending application(s), if any, shall stand disposed of.

.....J.
(J.K. MAHESHWARI)

..... J.
(VIJAY BISHNOI)

NEW DELHI,
Dated: 09th SEPTEMBER, 2025