

## Union Of India And Ors Vs Deepak Kumar And Anr

**Court:** Patna High Court

**Date of Decision:** Sept. 8, 2020

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

**Bench:** Division Bench

**Advocate:** Siddhartha Prasad, M.Pdixit

**Final Decision:** Disposed Of

### Judgement

Heard the parties.

Petitioner has prayed for following relief:-

“That this writ petition is directed against the order dated 27.09.2016 passed by the Central Administrative Tribunal, Patna Bench in Original

Application No. 425 of 2012. The said O.A. filed by applicants-respondents has been allowed and the learned Central Administrative Tribunal, Patna

Bench has pleased to direct the respondents to conduct an examination for the applicants which would be treated as absentee examination with

respect to the last examination conducted for such promotions, and if successful the applicant would be promoted as Loco Inspector from the due

date. The petitioners further pray of any other relief(s) that the petitioners are entitled to in the facts and circumstances of the case.”

Briefly stated the facts of the case is that respondents were initially appointed as Assistant Loco Pilot in the year, 2001 and got promotion to the post

of Loco Pilot (Goods) in the year, 2005 and again got promotion to the post of Loco Pilot (Passenger) in the year 2007 and 2014 respectively.

A notification dated 23.09.2009 was issued for promotion to the post of Loco Inspector for which respondents applied however their name did not

figure in the list of 93 eligible candidates published on 18.12.2009. However, respondent placed on record before the tribunal the names of candidates

who had not completed 75,000 k.m. foot plate experience yet were included in the list of eligible candidates.

It was submitted by the Railways before the Tribunal that candidates who did not complete 75,000 k.m. foot plate experience were not eligible to

appear in the departmental examination as such, respondents were not included in the list of eligible candidates. It was further stated that as per

railways circular dated 26.03.2009 existing running staffs posted as power/crew controller who were not medically de-categorised and who did not

have the requisites 75000 k.m will also be eligible for the post of Loco-Inspector.

Respondents were not found eligible according to railways as they worked as PRC/CRC on their verbal request in the control and crew lobby and

they were posted there not due to administrative reasons but on verbal requests made by them on account of family exigencies. According to railways

the benefit of relaxation as per Railway Board's letter dated 26.03.2009 was available to those who were drafted PRC/CRC and not who were

utilized as PRC/CRC without drafting.

After hearing both the sides the learned Central Administrative Tribunal allowed the O.A. para 5 and 6 of which reads as follows:

"5. We have heard both the parties and perused the records, It is an admitted fact that the applicants did not complete the required 75,000 foot

plate experience as they were posted as PRC/CRC for certain period, however from the perusal of the notification, it is noted that para 5 of the same

notification, it has been stipulated that the existing running staff posted as PRC/CRC, who are not medically decategorised and who do not have the

requisite 75000 kms. of actual driving experience will also be eligible to be considered for the post of Loco Inspector with the proviso that the shortfall

will have to be made good by them by being deployed on foot plate duties prior to their being actually posted to work as Loco Inspector. From the

above, it is clear that the respondent have consciously decided that those who were not fulfilling 75000 kms foot plate experience due to their work as

PRC/CRC, they will also be considered for the said period subject to fulfilment of required experience at the time of their posting as Loco Inspector.

Thereafter, if the respondents are admittedly allowing some persons who are presently as drafted PRC/CRC, they cannot deny the applicants on the

ground that, they were not working as drafted PRC/CRC.

6. In conclusion, we hold that as per the Railways own rules, even if the applicant was short of actual 75000 kms. foot plating experience, he should

have been allowed to sit in the examination, and if he was successful his promotion then it would have taken effect from the date of completion of

75000 kms. The Railways have allowed this facility to several employees, who were short of 75000 kms. foot plating experience. They have not given

a satisfactory explanation why they did not extend the same benefit to the applicant. It is also understood that during all these years the applicant must

have well completed the actual foot plating experience. Therefore, we direct the respondents to conduct an examination for the applicant, which would

be treated as absentee examination with respect to the last examination conducted for such promotion, and if successful the applicant would be

promoted as Loco Inspector from the due date. The respondents shall comply with this order within a period of three months from the date of receipt

of a copy of this order.

With this, the OA stands disposed of with no order as to costs.

This court does not find any error or infirmity in the order passed by the Tribunal requiring any interference by this Court in its writ jurisdiction. It is

stated by Mr. M.P. Dixit, counsel for the petitioner that two posts have been kept vacant awaiting outcome of present proceeding as such, there is no

impediment in complying the order passed by the Tribunal.

Accordingly this writ petition is disposed of.