

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7375 of 2024**

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1. Om Prakash Pandey Son of Late Purshottam Pandey, Resident of 3/319 Awas Vikas Colony, Sector - 3 Jhunsi, Prayagraj P.S. - Jhunsi, District - Prayagraj, Uttar Pradesh, Pin - 211019.
  2. Mukesh Kumar, Son of Hardeo Mahto, R/o - Qtr. No. 365/A, Loco Colony, Goilkera, P.S. Khagaul, Danapur, District- Patna, PIN 801105.
  3. Sanjay Kumar, Son of Sri Mahendra Roy, Resident of Mohalla – Indrapuri, Road No. - 04, P.O. - Keshari Nagar, P.S.- Patliputa, District Patna, Pin- 800024.
  4. Rajesh Kumar, Son of Ram Shakal Prasad Singh, Resident of 26-A, 02, Gandhi Park Colony, Samastipur, P.S. Town Thana- Samastipur, District -Samastipur, 848101.
  5. Manoj Chandra Bharti, Son of Mitra Nand Singh, Resident of Sherpur Chhatwara, P.O. - Madhopur Nijhama, P.S. - Mahua, District- Vaishali, Bihar Pin - 844122.
  6. Shashi Kumar, Son of Late Parshuram Thakur, Resident of Village – Nadaul, P.O. - Nadaul, P.S. - Masaurhi, District- Patna, Bihar, Pin- 804454.
  7. Kumar Alok, Son of Umesh Prasad Singh, Resident of RPS More, Judges Colony, Near Vastu Residency, Mahavir Path, P.S. - Danapur, District - Patna, Bihar Pin- 801503.
  8. Santosh Kumar Verma, Son of Late Rajendra Mistri, Resident of Garikhana, in front of Aggarwal Printing Press, Danapur, P.S. - Khagaul, District- Patna, Bihar, Pin - 801105.
  9. Ashok Kumar Sharma, Son of Late Prabhu Thakur, Resident of Village - Jitwarpur, Tola Massallan Chowk, behind Railway D.S. Colony, Block No. 506, P.S. - Town Thana Samastipur, District - Samastipur, Bihar, Pin - 848134.
  10. Raj Kumar Prasad, Son of Late Pulkit Prasad, Resident of Qtr. No. T- 122, Opposite Barbatta Raiway Colony, Road No. 2, Sonapur, P.S. - Sonapur, District- Saran, Bihar, Pin - 844101.
  11. Bhanu Pratap, Son of Late Ram Babu Prasad, Resident of Anwarpur West, Near Rohnish Indane Gas, Hajipur, P.S. - Hajipur Town, District – Vaishali, Bihar, Pin - 844101.
  12. Bindeshwar Kumar Singh, Son of Gopal Sharan Singh, Resident of Flat No.- 201, Shantilok Apartment, Block C, Sheikhpura, Bailey Road, P.S. - Sheikhpura, Patna, Bihar, Pin - 800014.

13. Kumar Mrityunjay, Son of Late Ram Vinay Sharma, Resident of Quarter No. 533 (A), Mohalla, Neora Colony, Road No. 13, Near Shiv Mandir, P.S. - Khagaul, Danapur, District - Patna, Bihar, Pin - 801105.

... ... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar), Pin- 844101.
2. The General Manager (Personal) East Central Railway, Hajipur, District- Vaishali (Bihar), Pin- 844101.
3. The Principal Chief Engineer, East Central Railway, Hajipur, District- Vaishali (Bihar), Pin- 844101.
4. The Divisional Railway Manager, East Central Railway, Danapur, District- Patna, (Bihar), Pin- 801105.
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7. The Additional Divisional Railway Manager, East Central Railway, Danapur, District- Patna, (Bihar), Pin- 801105.
8. The Additional Divisional Railway Manager, East Central Railway, Samastipur, District-Patna, (Bihar), Pin- 808101.
9. The Additional Divisional Railway Manager, East Central Railway, Sonpur, District- Patna, (Bihar), Pin- 808101.
10. The Senior Divisional Engineer (Coordination), East Central Railway, Danapur, District- Patna, (Bihar), Pin- 801105.
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12. The Senior Divisional Engineer (Coordination), East Central Railway, Sonpur, District- Patna, (Bihar), Pin- 841101.
13. The Senior Divisional Personal Officer, East Central Railway, Danapur, District- Patna, (Bihar), Pin- 801105.
14. The Senior Divisional Personal Officer, East Central Railway, Samastipur, District- Patna, (Bihar), Pin- 848101.

15. The Senior Divisional Personal Officer, East Central Railway, Sonpur, District- Patna, (Bihar), Pin- 841101.
16. The Senior Divisional Financial Manager, East Central Railway, Danapur, District- Patna, (Bihar), Pin- 801105.
17. The Senior Divisional Financial Manager, East Central Railway, Samastipur, District- Patna, (Bihar), Pin- 848101.
18. The Senior Divisional Financial Manager, East Central Railway, Sonpur, District- Patna, (Bihar), Pin- 841101.
19. Prabhat Ranjan, son of Sri Raj Kishore Prasad Singh, resident of village-Rahsa (East), P.O.-Bhagwanpur, P.S.- Mahua, District- Vaishali, Pin No.- 844114.
20. Rajiv Kumar Singh, son of Mishri Lal Singh, resident of village and P.O.- Bijuliya, P.S.- Shamho, District- Begusarai, Pin No.- 811106.
21. Md. Abdullah Ansari, son of Alahmed Ali Ansaqri, resident of ward no.-24, Masjid Gali, Shaikh Toli, Samastipur, District- Samastipur, Pin No. 848101.
22. Sunil Kumar, son of Ramchandra Prasad, Permanent resident of village- Barah Patthar, Ward No.-15, District- Samastipur, Pin No.- 852201.
23. Arjun Kumar, son of Late Ambika Ray, resident of D.K. Sikarpur, P.S.- Sikarpur, District- West Champaran (Bettiah), Pin No. 848101.
24. Rajender Singh Rathore, son of Late Sri Premchand Rathore, resident of Flat No.- 303, B- Block, Gangotri Palace, Katira, Aarah, Bhojpur, Bihar, Pin No.- 802301.
25. Deepak Kumar, son of Ramashray Thakur, resident of Ward No.- 4, Gobindpur (Part In Bachwara), Begusarai, Govindpur, Bihar, Pin No.- 851128.
26. Ashwini Kumar Srivastav, son of Late Surya Deep Srivastav, (Ex-Railway Guard) resident of Mohalla-Dharampur, Tajpur Road, Near C.P.S. New Building, District- Samastipur, Bihar, Pin No.- 848101.
27. Nandeshwar Prasad Yadav, son of Asharpohy Yadav, resident of Quarter No.- 43 C Gandhi Park, Railway Colony, Samastipur, Bihar, Pin No.- 848101.
28. Raj Kumar, son of Shiv Pujan Singh, resident of H.N.- L 01/47, South S.K. Puri, P.S.- S.K. Puri, District- Patna, Pin No.- 800021.

... ... Respondent/s

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*Writ petition - filed challenging the order of Central Administrative Tribunal denying the petitioners the benefit of MACP scheme.*

*Held - Grievances of petitioners are still subsisting. If the identical persons situated have been extended the benefit of pay fitment and MACP, on this score, petitioners are also entitled. Merely extending certain higher pay while re-designating the existing post does not amount to promotion. The object of extending MACP is that an employee/ officer stagnated in a particular post for 10 years, in such an event he or she is entitled to have the benefit of MACP. The petitioners were stagnated in a particular post and re-designation of such post does not amount to promotion. Ingredients of promotion are like extending higher pay scale attached to a particular post and so also higher responsibilities and other factors. Therefore, merely re-designation of particular post on two occasions does not amount to promotion. (Para 3)*

*Petitioners have made out a case so as to extend the benefit of pay fitment and MACP. (Para 4)*

*Writ petition is allowed. (Para 5)*

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... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Prem Ranjan Raj, Advocate.  
For the Respondent/s : Mr. Vishal Ranjan, CGC.

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 13-02-2025**

The petitioners have assailed the orders of Central Administrative Tribunal dated 19.07.2021 passed in O.A. No.328 of 2021 along with M.A. No.353 of 2021 and M.A. No.352 of 2021. The grievances of the petitioners are that petitioners were initially appointed to the post of P. Way Mistries and it was re-designated as P. Way Supervisor on 01.10.1996. Further the post of P. Way Supervisor was re-designated as J.E. (P. Way) Grade - II on 09.10.2003. In this backdrop identical situated persons who have approached



judicial forum and have got relief. On the other hand, petitioners' grievances have not been redressed, resultantly petitioners were compelled to file O.A. No.328 of 2021. Learned Central Administrative Tribunal while disposing of O.A. No.328 of 2021 passed the following orders. Paragraph nos.5 & 6 of the order reads as under:-

*“5. Considered the submissions. Here there are 23 applicants but Annexure-R/3 reveals that it is given by seven employees only. Anyhow liberty is granted to the applicants who have not filed representation earlier, to file representation within two weeks of this order. Without going into the merits of the OA, we think it would be appropriate to dispose of the OA with direction to the concerned respondents authority to consider the pending representations Annexure R-3 as well the representations of those applicants who has not represented earlier but has filed representation now within two weeks time granted by this Order and to pass order on all said representations within three months, to be counted from the date of expiry of period of two weeks granted to applicants to file representation or from the date of receipt of the copy of Order, whichever is later.*

*6. With said liberty and direction this OA & both MA 352 of 2021 and MA 353 of 2021 stand disposed of.”*

2. The petitioners should have filed Contempt of Court application before the C.A.T. insofar as non-compliance of the C.A.T. order dated 19.07.2021, on the other hand, they have preferred the present writ petition. Be that as it may, learned counsel for the respondents submitted that having regard





to the service particulars of the petitioners, they are not entitled to pay fitment and MACP. It is submitted that petitioners have been extended higher pay scale or pay while re-designating the post of P. Way Mistries to that of P. Way Supervisor and J.E. (P. Way) Grade-II and it amounts to promotion, resultantly petitioners are not entitled to the benefit of pay fitment and MACP as claimed by the petitioners.

3. In this context respondents are stated to have issued order or O.M. insofar as rejecting the petitioners' claim on 13.12.2021 thereafter it was withdrawn. Therefore, grievances of petitioners are still subsisting. If the identical persons situated have been extended the benefit of pay fitment and MACP, on this score, petitioners are also entitled. The respondents' contention that petitioners have been extended higher pay while re-designating the post of P. Way Mistries to that of P. Way Supervisor and further P. Way Supervisor to J.E. (P. Way) Grade - II. Merely extending certain higher pay while re-designating the existing post does not amount to promotion. The object of extending MACP is that an employee/ officer stagnated in a particular post for 10 years, in such an event he or she is entitled to have the benefit of MACP. The petitioners were stagnated in a particular post and re-designation of such



post does not amount to promotion. Ingredients of promotion are like extending higher pay scale attached to a particular post and so also higher responsibilities and other factors. Therefore, merely re-designation of particular post on two occasions does not amount to promotion. In the Railway Department, “Promotion to a higher cadre” means an employee being moved from a lower-level position to a higher-level position within the organizational hierarchy, usually involving increased responsibility, higher pay grade, and access to move senior roles, often achieved through merit-based selection or seniority depending on the specific post and railway rules; essentially, a step up in rank within the Railway Service. The aforementioned ingredients are not involved insofar as re-designation of post like P. Way Mistries to P. Way Supervisor and further from P. Way Supervisor to J.E. (P. Way) Grade - II.

4. In view of these facts and circumstances, the petitioners have made out a case so as to extend the benefit of pay fitment and MACP. In this regard, the concerned authority is hereby directed to extend pay fitment and MACP to the petitioners in the light of observation made supra within a period of four months from the date of receipt of this order. Hence, the order of Central Administrative Tribunal dated



19.07.2021 passed in O.A. No.328 of 2021 along with M.A. No.353 of 2021 and M.A. No.352 of 2021 stands set-aside.

5. Accordingly, the present writ petition stands allowed.

**(P. B. Bajanthri, J)**

**(Sunil Dutta Mishra, J)**

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