

GAHC010097242018



2026:GAU-AS:9687

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3107/2018

KARTICK SARKAR
CHIEF COMMERCIAL CLERK (COACHING),
S/O LT. SAMARENDRA SARKAR
BYE LANE NO. 6, GOPAL NIWAS,
KAMAKHYA NAGAR,
ADABARI TINIALI,
GUWAHATI - 781012.

VERSUS

THE UNION OF INDIA AND 4 ORS.
THROUGH THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,
GUWAHATI-11, MANAGEMENT OF N.F. RAILWAY, MALIGAON, GUWAHATI
-11.

2:DIVISIONAL RAILWAY MANAGAR

LUMBDING DIVISION

LUMBDING.

3:DIVISIONAL RAILWAY MANAGAR

(COMMERCIAL)
LUMBDING DIVISION

LUMBDING.

4:DIVISIONAL RAILWAY MANAGAR

(PERSONNEL)
LUMBDING DIVISION

LUMBDING.

5:ADDITIONAL DIVISIONAL RAILWAY MANAGER

N.F. RAILWAY
LUMBDING

Advocate for the Petitioner : MR. H RAHMAN, I HASIEB

Advocate for the Respondent : SC, NF RLY, MR G GOSWAMI

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 16.07.2026.

Heard Mr. H. Rahman, learned Senior Counsel assisted by Mr. B.J. Das, learned counsel for the petitioner. Also heard Mr. G. Goswami, learned counsel appearing for the respondent Railways.

2. By way of this writ petition under Article 226 of the Constitution of India, the petitioner seeks issuance of a writ of certiorari challenging the award dated 20.09.2017 passed by the learned Central Government Industrial Tribunal-cum-Labour Court, Guwahati, Assam (hereinafter referred to as "the CGIT") in Reference Case No. 22/2019.

3. The brief facts of the case are that the petitioner, upon allegedly being superseded by his juniors, submitted a representation before the appropriate authorities at Lumding. It is the specific grievance of the petitioner that despite being senior, his juniors were promoted ahead of him. In view of the industrial dispute having been raised, the matter was referred to the CGIT, Guwahati. Accordingly, Reference Case No. 22/2019 came to be registered. In the said

reference, the following issue was framed:

“Whether the action of the Divisional Railway Manager (P), N. F. Railway, Lumding Division in refusing to give effect of promotion in respect of Shri Kartik Sarkar with retrospective date with seniority over the junior, named Shri Subodh Ch. Bhattacharjee, Sr. Goods Clerk who Promoted on 28.09.2005 is justified and valid? If not, what relief Shri Kartik Sarkar is entitled to & from what date?”

4. Upon completion of the pleadings and recording of evidence, the learned CGIT adjudicated the reference and, by its award dated 20.09.2017, held that the action of the DRM (P), N.F. Railway, Lumding Division, in respect of the petitioner’s promotion was neither unjustified nor invalid. Consequently, it was held that the petitioner was not entitled to any relief and the reference was answered against him. Aggrieved thereby, the present writ petition has been filed.

5. Mr. H. Rahman, learned Senior Counsel appearing for the petitioner, submits that despite the petitioner being placed at Sl. No. 31 in the Provisional Seniority List dated 01.04.1994 of the N.F. Railway in the category of Junior Commercial Clerk, and Shri Subodh Ch. Bhattacharjee being placed at Sl. No. 37 therein, the said Shri Subodh Ch. Bhattacharjee was subsequently promoted by superseding the petitioner’s claim. It is, therefore, contended that the petitioner has been subjected to hostile discrimination by the respondent Railways.

6. The learned Senior Counsel further submits that since the petitioner became entitled to promotion after the merger of the cadres in the year 2007, and having since retired during the pendency of the proceedings, he is at least entitled to notional promotional benefits. In support of his submissions, reliance

has been placed upon the judgment of a Coordinate Bench of this Court in ***WP(C) No. 26/2021 (Dipali Pathak vs. State of Assam and Others)***.

7. *Per contra*, Mr. G. Goswami, learned counsel appearing for the respondent Railways, submits that the petitioner belonged to the Goods Stream of the Commercial Clerk cadre, whereas Shri Subodh Ch. Bhattacharjee belonged to the Coaching Stream. Learned counsel submits that these two streams were distinct and separate till they were amalgamated in the year 2007. Consequently, Shri Subodh Ch. Bhattacharjee having been promoted in the year 2005, when the Goods and Coaching Streams constituted separate cadres, the question of supersession of the petitioner does not arise.

8. I have given my thoughtful consideration to the submissions advanced by the learned counsel appearing for the respective parties and have also perused the materials available on record. I have further duly considered the decisions cited at the Bar.

9. It appears that the petitioner was initially appointed in the N.F. Railway on 01.09.1987 in the cadre of Junior Commercial Clerk. He was thereafter promoted on 22.05.1997 as Senior Commercial Clerk (Goods) in the pay scale of Rs. 4,000/- to Rs. 6,000/- under the recommendations of the 5th Central Pay Commission. Though it is the petitioner's contention that despite being senior he was superseded by at least three employees, namely, Shri Subodh Ch. Bhattacharjee, Shri R.K. Choudhury and Shri Sadhan Lal, it appears that all the aforesaid employees belonged to the Coaching Stream of the Commercial Clerk cadre, whereas the petitioner belonged to the Goods Stream. It further appears that during the adjudication before the CGIT, the petitioner's Witness No. 2, who was an office bearer of the Union, stated as follows:

".....in the NF Railway the unification of the three existing cadres of commercial clerks, viz. goods, coaching and transshipment were not done at the time as directed by the Railway Board It was effected on 1.1.2007."

10. During cross-examination, the said Witness No. 2 further admitted that the unified cadre comprising Goods, Coaching and Transshipment Clerks came into existence only in the year 2007. The witness further admitted that had such amalgamation been effected earlier, the petitioner would have derived the benefit of higher seniority while serving as Senior Commercial Clerk (Goods).

11. On the basis of the aforesaid evidence, the learned CGIT recorded the following findings:

"10. From the evidence of W.W No.2 it was clear that till 2007, Goods, Coaching and Transshipment departments were different streams and in the year 2007 these streams were amalgamated to create one unified cadre of commercial clerk. Statement of the witness in examination-in-chief made it clear. Coming to the evidence of the concerned workman, it was clear that he was posted as Senior Commercial clerk (Goods) till he was promoted as Head Commercial Clerk. It was also clear from the materials on record that after his "alleged" supersession, he did not file any representation to the concerned authority seeking redressal of his grievance. No such representation was proved by him. It was therefore clear that he did not file any representation within reasonable time. From his own statement it appeared that the alleged supersession was done in the year 2005 and the dispute was raised after substantial delay. It was also clearly evident that he did not submit any representation before his employer highlighting his grievance and seeking redressal. It was also clear from the evidence of the workman side, as noted above, that till 2007 Goods and Coaching were different streams. It therefore, did not appear to me that the DRM (P), N.F. Railway, Lumding division did any such unjustified act in respect of the promotion of the workman. The workman and another person named in the schedule of the "Reference" belonged to two different streams namely, Goods and Coaching at the relevant time, that is, in the year 2005. Admittedly, in the year 2007 both these streams were amalgamated to create a single stream. This perhaps, may be

the reason for which the workman did not submit any representation at the earliest. In fact, as per materials available on record, no such representation was ever submitted before the appointing authority by the workman.

11. In view of the above it is held that the action of the DRM (P), N.F. Railway, Lumding division in respect of the promotion of the workman Kartick Sarkar was not unjustified and invalid. The workman Sri Sarkar, therefore, is not entitled to any relief. The reference is answered accordingly”.

12. The relief sought in the present writ petition is issuance of a writ of certiorari for quashing the award dated 20.09.2017 passed by the learned CGIT in Reference Case No. 22/2019. The jurisdiction of this Court while exercising powers of judicial review under Article 226 by issuance of a writ of certiorari is a limited one. The writ court does not sit in appeal over the findings recorded by an inferior court or tribunal. The jurisdiction is confined to correcting jurisdictional errors and errors of law apparent on the face of the record.

13. This Court, in ***WP(C) No. 5180/2014 (M/s Kakadonga Tea Estate Pvt. Ltd. and Another vs. State of Assam and Others)***, has held that where a court or tribunal acts without jurisdiction, exceeds its jurisdiction, fails to exercise jurisdiction vested in it, proceeds upon an apparent misinterpretation of the relevant statutory provisions, ignores or disregards the same, or records findings founded upon reasons which are erroneous in law, the same may be corrected by issuance of a writ of certiorari under Article 226 of the Constitution of India.

14. Keeping the aforesaid principles in mind and examining the impugned award in their light, this Court finds no manifest error having been committed by the learned CGIT. The learned Tribunal has answered the reference on the basis of the evidence adduced before it, particularly the testimony of the petitioner's Witness No. 2.

15. In fact, from the submissions advanced before this Court by the learned Senior Counsel appearing for the petitioner, it is not seriously disputed that prior to the year 2007, the Goods Stream and the Coaching Stream constituted separate and distinct cadres and that they came to be amalgamated only with effect from the year 2007.

16. This Court is not required to reappreciate the evidence or sit in appeal over the award rendered by the learned CGIT. In the absence of any manifest error or jurisdictional infirmity having been demonstrated, no interference with the impugned award is warranted. Consequently, the writ petition is liable to fail.

17. Insofar as the prayer for grant of notional promotional benefits is concerned, it has been brought to the notice of this Court that although an order promoting the petitioner as HCC (Goods) was issued on 14.02.2011, he could not be promoted on account of the pendency of a major vigilance case against him. Subsequently, the petitioner was promoted as HCC (Goods)/CCC (Goods) against the vacancy of CCC (Coaching) and was posted at Hojai. However, he did not join pursuant to the promotion order dated 12.12.2013. It is further borne out from the records that the petitioner was again promoted to the post of CCC (G), Guwahati, by order dated 01.05.2015 and joined the said post on 07.05.2015.

18. In such circumstances, no question arises of granting the petitioner any notional promotional benefit, particularly when Shri Subodh Ch. Bhattacharjee had been promoted in the year 2005, at a point of time when the Goods and Coaching Streams had not yet been amalgamated into a unified Commercial Clerk cadre.

19. The decision of the Coordinate Bench of this Court in ***Dipali Pathak*** (supra) has no application to the facts of the present case, inasmuch as there was no supersession of the petitioner by any junior employee in the same cadre, unlike the factual matrix obtaining in the said decision.

20. Accordingly, the writ petition stands dismissed, being devoid of merit. There shall, however, be no order as to costs.

JUDGE

Comparing Assistant