

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 516 of 2025

Ravishankar Kumar, aged about 40 years, son of Ishwari Singh, resident of Eguni, P.O. and P.S. Paraiya, Tahsil Tekari, District Gata, Bihar, Pin-824209.

... .. Petitioner

Versus

1. The Union of India represented through the Chairmn and C.E.O., Railway Board, 256-A, Raisinha Road, Rail Bhawan, P.O. Sansadmarg, P.S.-Kartavyapath New Delhi-110011.
2. The Chairman, Railway Recruitment Board, Ranchi, Railway Offices Complex, Chutia, near Ranchi Railway Station, P.O. and P.S. Chutia, District Ranchi, Jharkhand, PIN-834001.
3. The Member Secretary, Railway Recruitment Board, Ranchi, Railway Offices Complex, Chutia, near Ranchi Railway Station, P.O. and P.S. Chutia, District Ranchi, Jharkhand, Pin-834001.
4. The Director Establishment (Railway Recruitment Board), Railway Board, Govt. of India, Ministry of Railways, Rai Sinha Road, Rail Bhawan, P.O.-Sansadmarg, P.S.-Kartavyapath New Delhi-110011.

... .. Respondents

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner	: Ms. Bharti V. Kaushal, Advocate
For the Respondent	: Mr. Prashant Pallav, A.S.G.I.
	Mr. Kumar Vaibhav, C.G.C.
	Mr. Ayush, C.G.C.

<u>CAV/Reserved on 24.03.2026</u> <u>Per Sujit Narayan Prasad, J.</u>	<u>Pronounced on 06/04/2026</u>
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1. The instant writ petition under Article 226 of the Constitution of India is directed against the order dated 23.10.2024 passed in O.A. No.OA/051/00265/2023 by the learned Central Administrative Tribunal, Patna Bench, Circuit Bench, Ranchi whereby and whereunder, the relief sought for in the original application has been refused to be granted by passing the following order:

“8. This Tribunal has considered the whole matter in its entirety and found that the counsel for applicant has been harping on hurried disposal of his representation, and drawing inference that this reflects non-application of mind. This is in our view is a conjecture and without any basis because every expeditious decision cannot be termed as non-application of mind unless proved. There is no reason assigned by the applicant that this order is without merit. Had it been a decision that would have taken a long time then

it cannot be said that it is because of application of mind and not because of the lethargy on the part of respondent.

9. The withdrawal of letter issued vide Annexure-8 through another letter vide Annexure-9 is based on cogent reasons that it would not be prudent to change the process when it has already begun. It would have been another issue of changing the rules of game midway and may have led to further litigation. Moreover, it relates to the consideration of cases condoning the delay during the Covid period which started in March 2020. It is to be noted that when the application for appointment was invited in 2019 this pandemic was not there, hence to use this as the reason for granting exemption on account of delay in discharge of the applicant after the cut-off date is not acceptable.

10. Lastly, the applicant while making the application for appointment has himself mentioned that his date of discharge is 20.03.2020, whereas his actual discharge was on 30.04.2020 that is after the cut-off date of 31.03.2020 thus making him guilty of making a false statement to make himself eligible for employment. This fact was noticed during the process of document verification. The applicant was allowed to appear in the examination on the basis of his false declaration hence his qualifying in the examination will not render him eligible for his employment. A parallel could be drawn with a well qualified candidate of Unreserved category who has crossed the maximum age limit. He makes a declaration that he belongs to a reserved category and therefore qualified to appear in the examination. He is allowed to appear and successfully qualifies the examination. This fact is detected at the time of document verification. Then he cannot take the plea that since he has qualified in the examination, he should be allowed to join because he took advantage of an advanced age that is permitted as a maximum age limit for a reserved category candidate. On the basis of consideration of all the factors we find that this O.A. is devoid of merit and is fit to be dismissed and accordingly it is dismissed. No order as to cost."

2. The brief facts of the case as per the pleading made in the writ petition having been enumerated from the original application needs to be referred here which is as under:
3. It is the case of the petitioner that he was appointed in the Indian Army against the post of Hav. (OFC) and served w.e.f 19.01.2004 to 30.04.2020, i.e. for a period a period of more than 16 years. A Centralized Employment Notice No. CEN No. 01/2019 for non-technical popular categories (NTPC) Graduate and Under Graduate posts was published on 28.02.2019 on the website of Govt. of India, Ministry of Railway, Railway Recruitment Boards wherein closing date of online registration of application was fixed on 31.03.2019. Para 10.2 of the said notice mentions that Defence personnel to be released within one year from the closing date of Online Registration of applications for this CEN (i.e. on or before 31.03.2020 can also apply, both for vacancies earmarked for Ex. Servicemen and for posts not reserved for them). The applicant/petitioner

herein applied for premature retirement on 27.11.2018 itself before the publication of the Employment Notice and he was also granted No Objection Certificate of his Unit on 08.03.2019 itself for applying to the said post advertised on 28.02.2019. In the meantime, subsequent to his application the applicant was recommended for pre-mature retirement on extreme compassionate ground on 28.07.2019 itself. On being declared successful in the said examination the applicant was shortlisted for verification of documents. E-Call letter dated 28.11.2022 was issued to the applicant for verification of documents and medical examination on 07.12.2022. On 07.12.2022 when the applicant appeared before the authorities for document verification he was orally told that his candidature had been rejected on the ground that he was not eligible since he did not retire from defence services on or before 31.03.2020.

4. Aggrieved by this oral rejection of his candidature for different posts of Level 2, 3, 5 & 6 for which the applicant was shortlisted, he moved the Tribunal by way of O.A. No. 16/2023 which was disposed of vide order dated 13.02.2023 with direction to the respondents not to give effect to oral order and to consider about his candidature and may pass a reason and speaking order within a reasonable time, but before completion of selection process. But the respondents did not consider the candidature of applicant vide impugned order/letter dated 22.03.2023 in terms of para 10.2 and 15.3 (h) of CEN No. 01/2019 and Railway's Board's letter dated 21.02.2023 ignoring the earlier guidelines as contained in letter dated 07.02.2023 issued during Covid Pandemic wherein it was specifically stated in para-3 that *"3..... after careful consideration of the matter, the Competent Authority has decided that ex-servicemen candidates, shortlisted for posts of CEN 01/2019(NTPC), who were relieved from service after 31.03.2020 due to exigency of service, if they found otherwise suitable, may be considered for empanelment."* Applicant has also referred to a similar case of one Mukesh Anand, Nayak in the defence Forces, who was relieved from services w.e.f. 31.05.2000 but his candidature was considered and he was appointed in Guwahati, RRB. Further grievance of the applicant that the above letter dated 07.02.2023 was withdrawn vide

letter dated 21.02.2023 without any rhyme and reason and on wrong interpretation of law.

5. Aggrieved with the order dated 22.03.2023 and letter dated 21.02.2023, the petitioner preferred O.A. No.OA/051/00265/2023 before the Learned Central Administrative Tribunal.
6. The learned Central Administrative Tribunal, Circuit Bench, Ranchi considering the arguments advanced on behalf of the parties had dismissed the original application being O.A. No. OA/051/00265/2023 vide order dated 23.10.2024.
7. It is evident as per the pleading made as referred hereinabove that the petitioner was appointed in the Indian Army against the post of Hav. (OFC) and served w.e.f 19.01.2004 to 30.04.2020, i.e. for a period a period of more than 16 years. A Centralized Employment Notice No. CEN No. 01/2019 for non-technical popular categories (NTPC) Graduate and Under Graduate posts was published on 28.02.2019 on the website of Govt. of India, Ministry of Railway, Railway Recruitment Boards wherein closing date of online registration of application was fixed on 31.03.2019. Para 10.2 of the said notice mentions that Defence personnel to be released within one year from the closing date of Online Registration of applications for this CEN (i.e. on or before 31.03.2020 can also apply, both for vacancies earmarked for Ex. Servicemen and for posts not reserved for them). The applicant applied for premature retirement on 27.11.2018 itself before the publication of the Employment Notice and he was also granted No Objection Certificate of his Unit on 08.03.2019 itself for applying to the said post advertised on 28.02.2019. In the meantime, subsequent to his application the applicant was recommended for premature retirement on extreme compassionate ground on 28.07.2019 itself. On being declared successful in the said examination the applicant was shortlisted for verification of documents. E-Call letter dated 28.11.2022 was issued to the applicant for verification of documents and medical examination on 07.12.2022. On 07.12.2022 when the applicant appeared before the authorities for document verification he was orally told that his

candidature had been rejected on the ground that he was not eligible since he did not retire from defence services on or before 31.03.2020.

8. The same was questioned the same by filing original application being O.A. No. 16 of 2023. The tribunal has disposed of the original application by directing the respondents to pass reasoned order. The reasoned order was passed on 22.03.2023 justifying the reason of rejection of the candidature by taking the grounds that the petitioner has not been separated from service of the armed forces up to 31.03.2020 rather he has been separated from service on 30.04.2020, as such, the petitioner has become ineligible in terms of the conditions stipulated as under condition no.10.2 of the advertisement. The second ground has been taken that the fact about separation from service although was on 30.04.2020 but the petitioner has shown the separation from service from 31.03.2020, as such, the fact has been suppressed.
9. Learned counsel for the petitioner has challenged the aforesaid order by filing another original application being O.A. No. OA/051/00265/2023 wherein the following prayer was made:

“(A) For quashing and setting aside the order as contained in Order No. RRB/RNC/CC dated 22.03.2023 issued under the signature of Member Secretary, Railway Recruitment Board, Ranchi, by which the candidature of the applicant against the posts advertised vide Employment Notice No. CEN No. 01/2019 (NTPC) has not been considered in terms of para 10.2 and 15.3(h) of CEN No. 01/2019 (NTPC) and also Railway Board's letter No. 2023/E(RRB)/0/01 dated 21.02.2023.

(B) For quashing and setting aside the Letter as contained in 2023/E(RRB)/0/01, dated 21.02.2023 issued under the signature of Director Estt. (RRB), Railway Board, Govt. of India, New Delhi to the extent that the same has withdrawn the earlier Letter No. 2023/E(RRB)/06/01 dated 07.02.2023 issued by the same Authority, De. Director Establishment (RRB) Railway Board, i.e. Respondent No. 4.

(C) For direction upon the respondents to consider the candidature of the applicant for appointment/empanelment to Level-5 posts after relaxing the cut-off date, i.e. 30.03.2020 for relieving order of Ex-Service men as has been done in case of Mukesh Anand.

AND

(D) The applicant prays for allowing the cost of litigation incurred in filing the instant application upon the respondents.

(E) The applicant prays for relief/relief(s), direction/direction(s) as this Hon'ble Tribunal may deem fit for doing conscionable justice to the Applicant under the facts and circumstances of the instant case.”

10. The written statement was filed defending the decision so taken by the respondent. The learned Tribunal has passed the order by dismissing the original application on the ground that the petitioner has not been found to come under the criteria of condition as stipulated under condition no.10.2 of the advertisement since the said condition stipulates that in order to get the benefit of ex-servicemen category, a candidate must be separated from service up to 31.03.2020.

11. The aforesaid order is under challenge in this writ petition.

Submission of the learned counsel for the petitioner:

12. Ms. Bharti V. Kaushal, learned counsel for the petitioner has taken the following grounds:

- (i) The petitioner has fulfilled the criteria as stipulated under condition no.10.2 of the advertisement.
- (ii) Even admitting the fact that the petitioner has been separated from service after 31.03.2020 then the same would have been taken for consideration of the rejection of all the candidates who have participated in the process of selection conducted by different railway recruitment boards, i.e., Guwahati and Bilaspur.
- (iii) It has been contended that the specific pleading had been made in the original application to the effect that the candidates who have been the benefit of ex-serviceman category, have got the said benefit, even though they have been separated from service after 31.03.2020, by the Guwahati and Bilaspur Railway Recruitment Board but the aforesaid parameter has not been adopted so far as the case of the present petitioner is concerned.
- (iv) It has been submitted that the specific plea since has been taken to the effect of hostile discrimination by treating discriminately the case of the petitioner to that of the other candidates who have participated in the process of selection which fact has not been disputed but even then, there is no consideration by the learned Tribunal of the said issue as would be evident from the face of the order impugned herein.

- (v) Learned counsel for the petitioner has further submitted that the fact about subjecting the petitioner with discrimination has been considered by this Court while passing the order dated 24.07.2025 and based upon that the supplementary counter affidavit has been filed herein since the respondent has made out a new case by applying the condition as stipulated under condition no.10.4 of the notice inviting application even though the other ground was not available before the learned Tribunal.
- (vi) Learned counsel for the petitioner, therefore, has submitted that it is not available for the respondent to make out absolutely a new case by improving the finding even though no such finding is available in the reasoned order.
- (vii) It has been submitted that this Court since has passed an order on 24.07.2025 during pendency of the instant writ petition by which the respondent has only been directed to come out with the instructions regarding the issue of acceptance of candidature of the candidates namely, Mukesh Anand, Nayak and other identical placed candidates who have participated in the process of selection conducted by the railway recruitment board of Guwahati and Bilaspur and while answering the said issue, the case has been moulded in different directions by taking the ground that in the meanwhile, the petitioner since has joined his service in Delhi Police, as such, No Objection Certificate is required to be submitted as per the condition stipulated under condition no.10.4 but the respondent cannot be allowed to travel beyond the pleading which was there before the tribunal in the written statement but herein, the entire case has been tried to be moulded in a case where the respondents are defending the order passed by the learned Tribunal which is not available to do so far as the case herein in concerned.

13. Learned counsel for the petitioner, based upon the aforesaid grounds, has submitted that the impugned order, therefore, needs interference.

Submission of the learned counsel for the respondent:

14. *Per contra*, Mr. Prashant Pallav, learned ASGI appearing for the respondent-Railway has taken the following grounds:

- (i) It has been argued that the issue of consideration of the candidature of the other candidates whose candidature has been considered by the railway recruitment board of Guwahati and Bilaspur and their candidatures have been accepted even though they have been separated from service after 31.03.2020 but as per the reason assigned in the reasoned order dated 22.03.2023 the petitioner has not furnished his actual position of separation from service, therefore, the respondent while passing the order by negating the claim of the petitioner has come out with the reason that the fact of separation from service has been suppressed.
- (ii) However, learned counsel for the respondent has admitted the fact that the separation from service after 31.03.2020 of the candidates who have participated in the process of selection conducted by Guwahati and Bilaspur Railway Recruitment Board have also not been disclosed and as such, virtually he has admitted the fact to this extent that the case of the petitioner is identical to that of the candidates who have participated in the process of selection conducted by Guwahati and Bilaspur Railway Recruitment Board including the case of Mukesh Anand, Nayak.
- (iii) It has been submitted by referring to the order passed by this Court dated 24.07.2025 and while examining the issue, the respondents have passed that the petitioner is to be looked into on the basis of the criteria as stipulated under condition no.10.4 of the advertisement in the backdrop of the fact that the petitioner after being separated from of the armed forces has joined the service in Delhi Police and in such circumstances, he ought to have placed the NOC. Learned counsel, therefore, has submitted that the condition as provided under condition no.10.4 of the advertisement being not followed is also against the criteria of the candidature of the petitioner.

15. Learned counsel for the respondents, based upon the aforesaid grounds has submitted that the order passed by the learned Tribunal, therefore, needs no interference.

Response:

16. In response, learned counsel for the petitioner has submitted that the ground which is now being taken for applicability of the condition stipulated under condition no.10.4 that cannot be allowed to be made out only on the garb of the order passed by this Court dated 24.07.2025 since the object and intent of the order passed by this Court was to come out with the instructions based upon the admitted fact before the Tribunal as to what is the basic difference in between the candidature of the present petitioner and other candidates who have participated in the process of selection conducted by Guwahati and Bilaspur Railway Recruitment Board. But herein, the respondents have tried to mould the issue entirely contrary to the pleading made in the original application.
17. Learned counsel, therefore, has submitted that the legality and propriety of the order impugned is to be assessed only on the basis of the material put forth before the Tribunal on the issue of discrimination as per the specific pleading made before the Tribunal and the same has not been disputed in the written statement.

Analysis

18. We have heard the learned counsel for the parties and gone through the finding recorded by the learned Tribunal in the impugned order.
19. This Court, before proceeding to deal with the aforesaid ground to consider the legality and propriety of the order passed by the Tribunal, needs to first discuss the power which is to be exercised by this Court under Article 226 of the Constitution of India as held by the Hon'ble Supreme Court in the case of *L. Chandra Kumar vs. Union of India and Ors., (1997) 3 SCC 261*.
20. The power which is to be exercised as per the position of law is to look into the legality and propriety of the order passed by the learned Tribunal only in a case error apparent on the face of the order or in a case of

perversity of finding in exercise of power conferred under the power of judicial review as has been held by the Hon'ble Apex Court at paragraph-99 in the aforesaid judgment. The said paragraph is being referred as under:

“99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the “exclusion of jurisdiction” clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323- B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.”

21. This Court, in order to assess as to whether two grounds placed before this Court, i.e., error apparent on the face of the order or element of perversity, has thought it proper to refer the power of judicial review which has also been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.
22. The Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39***, has held at paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned is vitiated by an error apparent on the face of the record and not the same has been established by a

process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under:

"30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . ---."

23. In the case of ***T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250***, their Lordship have held that the patent error in a decision can be corrected when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

"11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision."

24. Thus, on the basis of the aforesaid settled legal position it is evident that the power of judicial review can be exercised, if error on the face of the order impugned, challenged under the Article 226 of Constitution of India, appears to be there.
25. The Tribunal since has also been conferred with the power to exercise jurisdiction under Article 226 of the Constitution of India and as such, the adjudication is to be made as a court of equity having extraordinary jurisdiction therein also as a court of first instance under Article 226 of the Constitution of India to follow the principle of strict pleading as per the mandate as propounded in the case of ***Shivaji Balaram Haibatti vs. Avinash Maruthi Pawar, (2018) 11 SCC 652*** wherein at paragraph-26 it has been held which is being reproduced as under:

"26. ... It is a settled principle of law that the parties to the suit cannot travel beyond the pleadings so also the court cannot record any finding on the issues which are not part of pleadings. In other words, the court has to record the findings only on the issues which are part of the pleadings on which parties are contesting the case. Any finding recorded on an issue dehors the pleadings is without jurisdiction. Such is the case here."

26. The admitted case herein is that in pursuance of the advertisement, the petitioner claiming to be a member of ex-serviceman has made application

for consideration of his candidature as per the condition stipulated under condition no.10.2. The said condition is being reproduced as under:

“10.2 Persons serving in the Armed Forces of the Union, who on retirement from service would come under the category of Ex-Servicemen are eligible to apply for re-employment one year before the completion of the specific terms of engagement and avail themselves of all concessions available to Ex-Servicemen but such persons shall not be permitted to leave the uniform until they complete the specific terms of engagement in the Armed Forces of the Union.

Accordingly, such serving Defence personnel to be released within one year from the closing date of ONLINE Registration of applications for the CEN (i.e. on or before 31.03.2020) can also apply, both for vacancies earmarked for Ex-Servicemen and for posts not reserved for them. However, they should possess the prescribed educational qualifications as on the closing date of registration of online applications for this CEN i.e. 31.03.2019.”

27. It is evident from the aforesaid condition that the benefit of ex-servicemen category is to be obtained by one or the other candidates under this category if separated from the service of the armed forces up to 31.03.2020. The writ petitioner has made the application but he was not separated till 31.03.2020 rather he got separated from service of the armed forces on 30.04.2020.
28. The reference of the decision so taken by the respondent as on 07.02.2023 has been taken, appended as Annexure-8, that the period of separation from service of the armed forces has been decided to be accepted if not relieved up to the cut-off date of 31.03.2020. Subsequently, the aforesaid letter after lapse of about two weeks, the decision so taken was recalled with the decision that the RRBs should follow the procedure they have been following before issuing of these instructions.
29. It is thus evident that the issue of extension as per the policy decision dated 07.02.2023 since has been recalled, hence, the condition stipulated under condition no.10.2 was strictly to be adhered to.
30. The case of the petitioner has been rejected to be considered under the category of ex-servicemen on the ground that he has not been separated from service of the armed forces by 31.03.2020 rather on 30.04.2020.
31. The candidature of the petitioner was orally rejected which led the petitioner to approach the tribunal by filing O.A. No. 16 of 2023. The said original application was disposed of directing the respondents to

considered and pass a reasoned order. The reasoned order was passed on 22.03.2023 and again the candidature of the petitioner to be considered under the category of ex-servicemen was rejected by citing the following reason(s):

“4. While verifying your documents produced on the date of Document Verification it is found that your original date of discharge was 30.04.2020, which has been admitted by you also, which means that you have been discharged after the cut off date of discharge i.e. 31.03.2020 as mentioned at Para 10.2 which interalia states that “such serving Defence personnel to be released within one year from the closing date of ONLINE Registration of applications for the CEN (i.e. on or before 31.03.2020) can also apply, both for vacancies earmarked for Ex-Servicemen and for posts not reserved for them. However, they should possess the prescribed educational qualifications as on the closing date of registration of online applications for this CEN i.e. 31.03.2019.” Further, you have mislead the Railway Administration regarding the date of your discharge as 20.03.2020 in your Online Application.

Since, your date of discharge was 30.04.2020 which was beyond the cut off date of 31.03.2020, your candidature could not be considered in terms of Para 10.2 and 15.3 (h) of CEN No. 01/2019 and also Railway Board’s letter No. 2023/E(RRB)/06/01 dated 21.02.2023”

32. The same has again been assailed before the learned Tribunal by filing OA No. OA/051/00265/2023. The written statement was filed.
33. The specific pleading was taken before the learned Tribunal that the petitioner has been subjected to hostile discrimination since the other regional recruitment board have accepted the candidature of such candidates under the ex-servicemen category who even got separated from service after 31.03.2020. The specific name of such candidate has also been given. For ready reference, the pleading to that effect as made under para-17 is being reproduced as under:

“2. ... Applicant has also referred to a similar case of one Mukesh Anand, Nayak in the defence Forces, who was relieved from services w.e.f. 31.05.2020 but his candidature was considered and he was appointed in Guwahati, RRB.”

34. The written statement was filed on behalf of the respondent. The fact about subjecting the petitioner with hostile discrimination has not been disputed as would be evident from the response furnished on behalf of the respondent in the written statement in response to the statement made by the petitioner in the original application.
35. The learned tribunal has decided the issue against the petitioner by considering the non-compliance of the condition stipulated under

condition no.10.2 of the advertisement, i.e., the ground of taking the benefit of ex-servicemen even though he has not been separated from service of the armed forces up to 31.03.2020 rather he got separated from service on 30.04.2020. The tribunal has also taken the ground that the aforesaid fact has been suppressed by the petitioner.

36. The question of hostile discrimination was the specific issue raised before the tribunal subjecting the petitioner of violation of Article 14 of the Constitution of India.
37. The Article 14 is having two contexts, i.e., based upon the classification. One is reasonable classification and other is unreasonable classification. If the classification is based upon rationality said to be reasonable one then Article 14 will not be of any aid but certainly if the classification is unreasonable, then Article 14 will of aid to the litigant concerned to protect his fundamental right. Reference in this regard be made to the judgment rendered in the case of *State of West Bengal Vs. Anwar Ali Sarkar [AIR 1952 SC 75]* wherein it has been held that differentia between the basis of classification and the object of the things are two different things. It is important that there must be nexus between the basis of classification with the object of the Act.
38. In *Shri Ram Krishna Dalmia & Ors Vs. Shri Justice S.R. Tendolkar & Ors [AIR 1958 SC 538]*, the Hon'ble Apex Court, taking into consideration catena of judgments rendered by Hon'ble Apex Court, has held that Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of

this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure. Paragraph 11 of the said judgment is quoted as under:

“11. ...

(a). *That a law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself;*

(b). *That there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles;*

(c). *That it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds;*

(d). *That the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest;*

(e). *That in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation; and*

(f). *That while good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonably be regarded as based, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and un-known reasons for subjecting certain individuals or corporations to hostile or discriminating legislation....”*

39. The aforesaid principle can further be found in ***RE The Special Courts Bill, 1978***, which contains that:

- The basic principle of Article 14 is that the persons in similar circumstances shall be treated similarly both in privileges conferred and liability imposed.
- The State shall have the power to determine with regard to the process of classification, which should be regarded as a class for the purpose of legislation and in relation to a law enacted on a particular subject.
- The classification does not mean arbitrary application of law to certain person instead it means segregation in classes which had a systematic relation, usually found common property and characteristics.

➤ The law can make and set apart the classes according to the needs and exigencies of the society and suggested by experience. It can even recognize ‘degrees of evil’ but the classification should never be arbitrary, or artificial.

40. In ***R.K. Garg Vs. Union of India & Ors [(1981) 4 SCC 675]***, the Hon’ble Apex Court has held that Article 14 forbids class legislation but does not forbid reasonable classification.

41. It is, thus, evident that Article 14 prohibits discriminatory legislation against an individual or against a class of individual but it does not prohibit reasonable classification. Reference in this regard be made to the judgment rendered by Hon’ble Apex Court in ***D.S. Nakara & Ors. v. Union of India [(1983) 1 SCC 305]***, wherein at paragraph 11, it has been held as under:-

“11. The decisions clearly lay down that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purpose of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled viz. (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group; and (ii) that that differentia must have a rational relation to the objects sought to be achieved by the statute in question (see Ram Krishna Dalmia v. Justice S.R. Tendolkar [AIR 1958 SC 538 : 1959 SCR 279, 296 : 1959 SCJ 147]). The classification may be founded on differential basis according to objects sought to be achieved but what is implicit in it is that there ought to be a nexus i.e. causal connection between the basis of classification and object of the statute under consideration. It is equally well settled by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.”

42. This Court is now proceeding to examine as to whether the issue of discrimination which has been raised on behalf of the petitioner is under reasonable or unreasonable criteria.

43. The fact regarding the condition as available under condition no.10.2 of the advertisement floated by the Ranchi Railway Recruitment Board is admitted to be the same advertisement floated by the Guwahati and Bilaspur Railway Recruitment Board. The candidates who have sought for the benefit of ex-servicemen category in the railway recruitment of Guwahati and Bilaspur have been given the benefit of ex-servicemen even though they have been separated from service of the armed forces after

31.03.2020. The name of one of the candidates has also been disclosed, i.e., Mukesh Kumar, Nayak.

44. The fact about the identical condition to consider the candidature of one or the other candidates under the ex-servicemen category in all the advertisement issued by the railway recruitment board either it is Guwahati or Bilaspur or Ranchi, have not been disputed.
45. The question would be that when the ex-servicemen category is being considered for one or the other candidates as per the condition stipulated under condition no.10.2 on the basis of separation from service of armed forces up to 31.03.2020 then it should have been restricted to the said condition strictly without giving any premium to any other candidate who have made application to other regional railway recruitment board having the same conditions in the advertisement floated.
46. The aforesaid consideration of the candidature by two regional railway recruitment board and no consideration of the candidature of the present petitioner is admittedly not under the reasonable classification rather it is under the fold of unreasonable classification since the nodal body said to be the apex body of all the recruitment is the Railway Board under the Ministry of Railways.
47. This Court, therefore, is of the view that whatever recruitment has been allowed to be made by the regional recruitment board that is under the authority of the Railway Board controlled by the ministry of railways and as such, all the parameters of the appointments is required to be followed uniformly and it cannot be allowed to be based on the basis of the region as the facts of the present case is.
48. The aforesaid pleading has specifically been made before the tribunal but the aforesaid fact has not been answered by the tribunal.
49. Before appreciating the aforesaid issue, it needs to be considered by this Court that the additional ground has been taken by the respondent with respect to the condition no.10.4 as available in the advertisement.
50. The condition no.10.4 is with respect to such candidates who after getting the status of ex-servicemen and before appointment in terms of the

advertisement got the appointment which is civil in nature then in such circumstances, declaration is to be furnished along with NOC from the civil employer during the document verification failing which they will not get the benefit of ex-servicemen category. For ready reference, condition no.10.4 is being reproduced as under:

“10.4 If an Ex-Serviceman applies for various vacancies before joining any civil employment, he/she can avail the benefit of reservation as Ex-Serviceman for any subsequent employment, subject to the condition that an Ex-Serviceman as soon as he/she joins any civil employment, should give self-declaration/undertaking to the concerned employer about the date wise details of application for various vacancies, including this CEN, for which he/she had applied for, before joining the initial civil employment. The acknowledged copy of this declaration along with no objection certificate (NOC) from the civil employer should be produced during document verification, failing which they will not get benefit of reservation for Ex-Servicemen. Further, this benefit would be available only in respect of vacancies which are filled on direct recruitment and wherever reservation is applicable to the Ex-Servicemen.”

51. The admitted fact as has been admitted by the learned ASGI is that the rejection of the candidature of the present petitioner for consideration under the ex-servicemen category as per the reasoned order is totally based upon the applicability of the condition no.10.2 and there is no reference of the applicability of the condition no.10.4.
52. It is also admitted position as has been admitted by the learned ASGI that the applicability of the condition no.10.4 has also not been pleaded by the respondent in the written statement before the Tribunal.
53. Further, it has been submitted that the applicability of the condition no.10.4 has been taken into consideration in the light of the order passed by this Court on 24.07.2025 and in course of delving with the issue, it has been found that the petitioner has got appointment in Delhi Police and in view of the examination, condition no.10.4 is required to be considered, i.e., NOC from the civil employer to be placed at the time of document verification.
54. This Court after going through the condition no.10.4 and making out an additional ground as per the decision taken by the authority in the reasoned order dated 22.03.2023 which has been passed in pursuance of the order of command issued by the learned Tribunal in exercise of power conferred under Article 226 of the Constitution of India and if the applicability of

the condition as contained under condition no.10.4 was at all there, then it should have been referred in the said reasoned order while rejecting the candidature of the petitioner for consideration of his case under the ex-servicemen category.

55. But the same has not been done as per the admitted case as has been referred hereinabove rather it has been submitted that the applicability of the condition as under condition no.10.4 has been considered in the light of the interim order passed by this Court and hence, the same cannot be said to be a reasoned consideration. But this Court, is not in agreement with the same reason being that whatever order has been passed by this Court, the same is in the pretext of the fact that the argument was advanced on behalf of the petitioner that the petitioner has been subjected to hostile discrimination by not giving the said benefit as was given to Mukesh Anand, Nayak who was relieved from service w.e.f. 31.05.2020 and he has been appointed. For ready reference, the order dated 24.07.2020 is being reproduced as under:

“1. Heard.

2. It is a specific case of the petitioner that a similar situated employee namely Sri Mukesh Anand, Nayak, who was relieved from service with effect from 31.05.2000 was not only considered but thereafter appointed in Guwahati Railway Recruitment Board whereas, the petitioner alone was singled out since 10 other similarly situated persons have been appointed in Railway Recruitment Board, Bilaspur, Chhattisgarh vide order dated 03.11.2023.

3. It needs to be noticed that the contention of Sri Anand being appointed was already considered before the learned Tribunal as is evident from perusal of para-2 of the order passed by the learned Tribunal, but this question was not at all dealt with by the learned Tribunal.

4. In the given circumstances, we deem it appropriate to direct the respondents to file a supplementary affidavit regarding the appointment given to Sri Mukesh Anand and how his case is different from the petitioner. We further direct the respondents to file an affidavit explaining how the cases of 10 other ex-servicemen, who have been given appointment vide order dated 03.11.2023, is different from that of the petitioner.

5. List after two weeks.”

56. This Court is of the view that the context of passing the order on 24.07.2025 by this Court was in the context of the issue of discrimination and therefore, this Court has passed an order that how the case of Mukesh Anand, Nayak is different to that of the case of the present petitioner. As also, it is the admitted case that the NOC has subsequently been furnished

on behalf of the petitioner to the appointing authority and as such, there is no element of misrepresentation on the part of the petitioner.

57. Further, the respondent has been directed to file an affidavit explaining how the case of 10 other ex-servicemen who have been appointed in Railway Recruitment Board, Bilaspur, Chattisgarh vide order dated 03.11.2023 is different to that of the petitioner.
58. The aforesaid intent of the said order cannot be considered that the respondent have been given further liberty to make improvement in the decision already taken in the reasoned order rather the intend of the order is to disclose the issue of discrimination by assigning the reason.
59. The fact about the case of the petitioner along with Mukesh Anand, Nayak and other 10 candidates who have been considered in the ex-servicemen category has been admitted to be not different to that of the case of the present petitioner.
60. This Court in the aforesaid since is to be consider as to whether the respondents have got any right to improve the reasoned order which has already been taken on the basis of the order of passed by the learned Tribunal. This Court is further of the view that if the respondent will be allowed to improve the impugned order will it not amount to improving the order during pendency of the *lis*. Further will it not be contrary to the law laid down by the Hon'ble Apex Court in the case of ***Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others***, reported in ***(1978) 1 SCC 405***. Relevant paragraph of the said judgment is being reproduced as under:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji:

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.”

61. It is evident from the aforesaid pronouncement as rendered by the Hon’ble Apex Court in the case of ***Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others*** (supra) that the order passed by the authority cannot be allowed to be improved by way of counter affidavit and exactly the case herein is. The reason which has been assigned in the impugned is being sought to be improved by inserting another reason in the garb of the order passed by this Court.
62. This Court has passed the order with the intend to seek justification of the decision so taken as contained in the reasoned order dated 22.03.2023. The fact about discriminatory attitude although has been pleaded but has not been taken into consideration by the learned Tribunal, hence, this Court is of the view that the order passed by the learned Tribunal suffers from perversity.
63. This Court needs to refer herein the interpretation of the word “perverse” as has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence. The Hon'ble Apex Court in ***Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206*** while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

“24. The expression “perverse” has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression “perverse” means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.

25. In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that “perverse finding” means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.

26. In *M.S. Narayanagouda v. Girijamma* [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In *Moffett v. Gough* [(1878) 1 LR 1r 331] the Court observed that a “perverse verdict” may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In *Godfrey v. Godfrey* [106 NW 814] the Court defined “perverse” as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

27. The expression “perverse” has been defined by various dictionaries in the following manner:

1. *Oxford Advanced Learner's Dictionary of Current English*, 6th Edn.

“Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.”

2. *Longman Dictionary of Contemporary English*, International Edn.

Perverse.—Deliberately departing from what is normal and reasonable.

3. *The New Oxford Dictionary of English*, 1998 Edn.

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. *The New Lexicon Webster's Dictionary of the English Language* (Deluxe Encyclopedic Edn.)

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. *Stroud's Judicial Dictionary of Words & Phrases*, 4th Edn.

“Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.””

64. Thus, a perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. Further “perverse” means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.

65. The consideration on the issue of parity with the case of Mukesh Anand, Nayak and other identical placed candidates who have participated in the process of selection conducted by the railway recruitment board of Guwahati and Bilaspur since has not been considered even though the same has been taken note in the impugned order passed by the Tribunal, as such, according to our considered view, the aforesaid non-consideration of the issue of parity comes under the fold of perversity.

66. This Court in view of the aforesaid after having exercising the power of judicial review in view of the law laid down in the case of *L. Chandra Kumar vs. Union of India and Ors.* (supra) is of the view that the impugned order passed by the learned Tribunal needs interference.
67. Accordingly, the order dated 23.10.2024 passed in O.A. No.OA/051/00265/2023 by the learned Central Administrative Tribunal, Patna Bench, Circuit Bench, Ranchi is hereby quashed and set aside.
68. In consequence thereof, the instant writ petition stands allowed.
69. This Court intends to remit the matter before the learned Tribunal but no purpose would be served as it is a matter of recruitment and further if the fact about the discrimination would have been disputed then the matter would have been remitted to the Tribunal to adjudicate the issue but that is not the fact herein, rather the fact about discrimination has been admitted as has been referred hereinabove, then, the question is that for what purpose the matter is to be remitted.
70. This Court, therefore, is of the view that it is not a case where the case is to be remitted rather this Court is of the view that the command is to be issued upon the respondents in exercise of power under Article 226 of the Constitution of India to come out with the appointment letter in favour of the petitioner.
71. Accordingly, the concerned respondent is directed to issue appointment letter in favour of the petitioner within a period of four weeks from the date of receipt/production of the order.
72. Pending interlocutory application(s), if any, also stands disposed of.

(Sujit Narayan Prasad, J.)

I agree,

(Deepak Roshan, J.)

(Deepak Roshan, J.)

06th April, 2026

Saurabh/-

A.F.R.

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