

24.08.2026
Item No.18
Court No.01
Avijit Mitra

WP.CT 64 of 2026

**The Union of India & ors.
-Versus -
Ashim Kumar Biswas**

Mr. Swapan Kumar Nandi,
Ms. Anamika Pandey
.....for the petitioners
Mr. Ujjal Ray
.....for the respondent

The present writ petition has been preferred by the Union of India and its functionaries challenging an order dated 11th August, 2025 passed by the learned Tribunal in the original application (in short, OA) being OA No.350/513/2023. By the said order, the OA was disposed of with a direction upon the respondents/petitioners herein to count services of the original applicant/respondent herein as *substitute* from the date when he had completed four months' continuous service under the Eastern Railways, as qualifying service for pension and to make payment of his pension and other consequential benefits, accordingly.

Mr. Nandi, learned advocate appearing for the petitioners strenuously argues that the *substitute* is not a permanent employee on regular pay and allowances. In support of such contention he draws

the attention of this Court to the definition of *substitute* as incorporated under IREM paragraph 1512 Indian Railway Manual Vol-ii and the provisions of Rule 3(26) of the Railway Services (Pension) Amendment Rules, 2016.

According to Mr. Nandi, the learned Tribunal has glossed over the issue that the respondent was an unapproved substitute and that he was not engaged against a permanent vacancy or on a regular scale of pay. In view thereof, the petitioners ought not to have been directed to count the services rendered by the respondent after completion of four months' service as a *substitute*, as qualifying services for pension.

He further argues that the engagement in *substitute* category does not automatically confer the right of absorption in permanent category post without a screening test. Such argument, as advanced, was glossed over and no finding was returned on the same.

Mr. Ray, learned advocate appearing for the respondent, however, denies and disputes the contention of Mr. Nandi and submits that there is no infirmity in the order impugned as the same has been passed in strict consonance with the provisions of IREM paragraph 1512 Indian Railway Manual Vol-ii and the provisions of Rule 3 (26) of the Railway

Services (Pension) Amendment Rules, 2016 and the Railway Board circular dated 17th September, 2010.

Drawing the attention of this Court to the letter of engagement dated 9th September, 1985, Mr. Ray submits that the respondent was allowed to work as a *substitute* against the casualties beyond the permissible period in the station concerned and as such a *substitute's* service is counted against a sanctioned permanent vacancy. It would also be explicit from the documents annexed to the writ petition that the respondent was found suitable for the concerned post upon screening. In the said conspectus, the learned Tribunal rightly exercised discretion in favour of the respondent and there is no infirmity in the said decision.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the respondent was engaged against a regular permanent post, as would be explicit from the letter of engagement dated 9th September, 1985. Thereafter, upon screening, the respondent was permanently posted. In the said conspectus, the learned Tribunal rightly observed that the respondent was '*appointed as Substitute*

under the Railways and later on he was absorbed against a permanent post'.

The Railway Board circular dated 17th September, 2010 provides, *inter alia*, that the period of service of such *substitute* will be counted for full pensionary benefits from the date of completion of four months' continuous service provided it is followed by absorption in regular service. The respondent did fulfil such condition as incorporated in paragraph 4.4 of the Railway Board circular dated 17th September, 2010.

The learned Tribunal upon dealing with the factual issues arrived at specific findings and we do not find any error in the same.

Accordingly, the writ petition is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Atarup Banerjee, J.) (Tapabrata Chakraborty, A.C.J.)