

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11328 of 2010

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1. The Union of India through the General Manager Eastern Central Railway, Hajipur
 2. The Divisional Railway Manager, East Central Railway Danapur
 3. The Senior Divisional Personnel Officer East Central Railway, Danapur
 4. The Senior D.F.M. East Central Railway Danapur
 5. The Senior D.E.N. (Co-Ordination) East Central Railway Danapur
 6. The Section Engineer(Works), East Central Railway Jhajha

.... Petitioner/s

Versus

Smt. Kalawati Devi W/O Late Kishun R/O Vill Khapari, P.O.Jhajha,
Distt-Jamui (Bihar)

.... Respondent

With

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Civil Writ Jurisdiction Case No. 17048 of 2010

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1. The Union of India through the General Manager Eastern Central Railway, Hajipur
2. The Divisional Railway Manager, East Central Railway, Danapur
3. The Senior Divisional Personnel Officer, East Central Railway, Danapur
4. The Senior D.F.M., East Central Railway, Danapur
5. The Senior D.E.N. (Co-Ordination), East Central Railway, Danapur
6. The Section Engineer (P. Way), East Central Railway, Jhajha

.... Petitioners

Versus

Smt. Jashoda Devi W/O Late Etwari Ex-Gangman, R/O Vill.-
Khuripras, P.O.- Jhajha, Distt.- Munger (At Present Jamui), Bihar

.... Respondent

- 2 -

With

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Civil Writ Jurisdiction Case No. 20392 of 2010

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1. The Union Of India through the General Manager, Eastern Central Railway, Hazipur
2. The Divisional Railway Manager, East Central Railway, Danapur
3. The Senior Divisional Personnel Officer, East Central Railway, Danapur
4. The Senior D.F.M., East Central Railway, Danapur
5. The Senior D.E.N. (Co-Ordination) East Central Railway, Danapur
6. The I.O.W., East Central Railway, Buxar

.... Petitioners

Versus

Smt. Sanichari Devi W/O Late Rampyar R/O Vill.- Jagdishpur, P.O.- Nadaul, Distt.- Bhojpur (Bihar).

.... Respondent

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Appearance :

For the Petitioners	:	Mr. Bindhyachal Singh, Advocate Mr. Parijat Saurav, Advocate Mr. Manish Prakash, Advocate
For the Respondents	:	Mr. M.P. Dixit, Advocate Mr. S.K. Dixit, Advocate Mr. Sanjay Kr. Choubey, Advocate Mr. Shailendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 21-07-2015

In all these three writ petitions, Railways is aggrieved by the order of the Central Administrative Tribunal (in short, the “CAT”) Patna Bench, Patna, whereby it has



ordered for continuance of payment of family pension to the contesting respondents who are widows of railway employees who had died in harness. Let it be noted that after the employees died, the widows have been in receipt of family pension for almost 20 years when it was suddenly stopped. The case of the railway is that husbands of the three widows in the three writ petitions were casual employees. They are referred to as C.P.C. (Central Project Casual). They were, thus, not entitled to family pension. The Tribunal has held otherwise. This court had sought for some more basic information. Supplementary affidavits have been filed by the railway in all these three writ applications.

Heard learned counsel for the petitioners and learned counsel for the respondents for final disposal of all these three cases.

It is around early 1980s that the husband of the three contesting respondents who are applicants before the Tribunal died while in employment of the railways. Immediately family pension was fixed and was started being paid. In 1996 i.e. after almost 1½ decades of payment of family pension notices were issued to them as to why family pension granted to them be not cancelled. They filed their replies but no action was taken. They did not hear anything further from the railways.

Family pension continued to be paid. Suddenly, in about 2004, family pension was stopped without any notice or order. They approached the Tribunal and when the Tribunal set aside the order and ordered restoration of family pension, the railways have come to this Court in these writ petitions.

The contention on behalf of the railways is that husbands of the widows, who are in receipt of family pension, were casual employees. They were not entitled to family pension as per decisions of the Court. It is to ascertain this that we had asked railways to file affidavit bringing on record papers and documents to show that they were mere casual employees. The affidavits have been filed. We regret our inability to agree with the railways. The first thing in all the three supplementary affidavits we find is that the documents, pertaining to the husbands of the three widows to whom we are concerned, mentioned reference of decasualization.

Mr. M.P. Dixit appearing on behalf of the contesting respondents submits that in around 1979, railways had taken a conscious decision to decasualize its employees and it is under that process the three concerned persons were then appointed as Khalasi/Gangmen. We find from the service document, as pointed out, that they have been appointed on a



- 5 -

pay scale, their leave register is being maintained, whether there is break in service or not is being looked into and increments are being granted. There are appointment letter also. Thus, to say that they are casual employees is not correct. They have all worked for long tenure, and now after about 20 years of their death, to say that they were casual and their widows who have been receiving family pension for almost two decades, to be told that the family pension is being paid wrongly, on the facts aforesaid cannot be accepted.

Thus, we find no merit in these three writ applications. They are, accordingly, dismissed.

The family pension of the widows have been stopped and, as Mr. Dixit representing them submits, has not yet been restarted they are deprived of their sustenance for the last 10 years. Let the Railways accordingly pay the arrears and resume the family pension at the earliest not later than two months from today.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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