

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.655 of 2014

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1. Sushil Kumar Upadhyay Son of Sri Damodar Upadhyay Resident of
village - Majhauli, P.O. Sohara, P.S. Krishnagarh Saraiya, District -
Bhojpur

.... Appellant/s

Versus

1. The Union of India through the General Manager, East Central Railway,
Hajipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Mishra,
Mr. Dineshwar Mishra, Advocates.

For the Respondent/s : Mr. Anil Kumar Sinha,
Mr. Abhimanyu Deo, Advocates.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 15-12-2015 Heard learned counsel for the appellant and learned
counsel for the respondent.

I.A. No. 8950 of 2015 has been filed for condonation of
delay in filing the present appeal.

This Court is satisfied with the explanation made in the
present interlocutory application.

Accordingly the delay in filing the appeal is hereby
condoned and I.A. No.8950 of 2015 is disposed of.

In the present appeal the appellant is challenging the
order dated 16.5.2014 passed in O.A. No.279 of 2005 by
Railway Claim Tribunal, Patna by which the Tribunal has
rejected the claim of the appellant.

It has been recorded by the Tribunal that the documents, namely, leave and duty certificate, Sanha number, and fardbeyan have been filed. These are mere Xerox and not authenticated by the issuing officer. So much so non-appearance of the applicant and non-authentication of the documents submitted by the applicant was the main reason for dismissal of the case.

The Tribunal has not decided the case of its merit rather it has been decided on technical ground.

In this view of the matter, this Court is of the view that the order dated 16.5.2014 passed by the Tribunal is set aside and remanded back the matter with a liberty to the applicant that he may take legal course in accordance with law.

Accordingly the order dated 16.5.2014 passed by the Tribunal in O.A. No.279 of 2005 is set aside and appellant, if so advised, may take legal course in accordance with law.

With the aforesaid observation and direction this appeal is allowed.

Vinay/-

(Shivaji Pandey, J)

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