

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.438 of 2015

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Chameli Devi, Wife of Late Suresh Malik, Ex-Safaiwala under the C.D.O.,
Barauni, resident of village- Dariapur, P.O. & Police Station- Hathidah, District-
Patna (Bihar).

.... Petitioner

Versus

1. The Union of India through General Manager, E.C. Railway, Hajipur, Vaishali.
2. The Divisional Railway Manager, E.C. Railway, Sonepur.
3. The Senior Divisional Mechanical Engineer, (C & W), E.C. Railway, Sonepur.
4. The D.R.M. (P.), E.C. Railway, Sonepur.
5. The Carriage Depot Officer, E.C. Railway, Barauni (Begusarai).

.... Respondents

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Appearance :

For the Petitioner : Mr. Irshad Ahmad Khan, Advocate
Mr. Ram Bilash Prasad, Advocate

For the Respondents : Mr. Bijoy Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 12-05-2016

The challenge in the present writ application is to an order dated 5th September, 2012 passed in O.A. No. 763 of 2012 with M.A. No. 400 of 2012, whereby an original application filed by the petitioner was dismissed on the ground of delay and laches.

2. The challenge is also to an order passed in review application dated 27th August, 2013 whereby the review of the said order was dismissed.

3. The husband of the appellant was working as *Safai Karamchari*. As per the averments made in the original application, he



fell sick on 10.11.1990 and was unable to perform his duties. He died in 2009. The assertion of the petitioner that she came to know about the order dated 26th February, 1992 /12th March, 1992 of dismissal/removal of her husband only when she got information under the Right to Information Act in the year 2010. It is thereafter, the petitioner invoked the jurisdiction of the Tribunal which has been dismissed on the ground that even after getting information under the Right to Information Act, the petitioner has waited for more than two years. Therefore, there is no cause for condonation of delay.

4. The stand of the petitioner is that she was not aware of the fact that services of her husband were terminated. Such stand cannot be believed. As per the petitioner, her husband did not go on duty after 1990. Therefore, for almost 20 years there was no grievance raised by the petitioner or by her husband in respect of joining or payment of salary or any other step which may show that her husband asserted his right as an employee of the respondents.

5. In view thereof, we do not find any error passed by the learned Tribunal that the Original Application filed in the year 2012 suffers from delay and is barred by limitation. The writ application is, thus, dismissed.

6. However, learned counsel for the petitioner states that her husband had not been paid dues for the period he was working in the

Railways. If that be so, the petitioner may submit a representation which shall be considered by the respondents in accordance with law expeditiously.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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