

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10983 of 2012

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1. The Union of India through Secretary, Ministry Of Railways, Rail Bhawan, New Delhi
 2. The General Manager, Eastern Railway, Fairly Place, Netajee Marg, Kolkata
 3. The Divisional Railway Manager, Eastern Railway, Malda Division, Malda
 4. The Senior Section Engineer (P-Way), Eastern Railway, Bhagalpur
 5. The Assistant Personnel Officer, Eastern Railway, Malda Division, Malda
 6. The Divisional Finance Manager, Malda Division, Eastern Railway, Bhagalpur
 7. The Assistant Divisional Finance Manager, Malda Division, Eastern Railway, Malda
 8. The Accounts Officer (Pension), F.A. & C.D.S. Office, Malda Division, Eastern Railway, Malda

.... Petitioner/s

Versus

1. Joy Prakash Son Of Late Futul Resident Of Village- Bhabhnathpur, Post Office Ranuchok, Makanpur, Police Station- Akbar Nagar, District- Bhagalpur

.... Respondent/s

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For the Petitioner/s : Mr Anil Singh, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
&

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 01-04-2016

Railway, through Union of India, has filed this writ application challenging the order dated 28.06.2011 passed in OA No 308 of 2009 by the Central Administrative Tribunal, Patna Bench, Patna (for brevity, *the Tribunal*) by which the Tribunal allowed the application of the employee, for computing pensionary benefits by taking the entire period of service, that is in the temporary status and after absorption, as period relevant for the said purpose.

2 The facts are not in dispute. The applicant was appointed, in temporary status, on 16.03.1975 and he was absorbed against permanent vacancy on 31.10.1978. He superannuated on 31.03.1996. Railway, for computing pensionary benefits, took into account the

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period 31.10.1978 to 31.03.1996 as complete period but so far as the period in between 16.03.1975 to 31.10.1978 is concerned, it took only 50% thereof as qualifying service, in view of Rule 31 of the Railways Pension Rules. The Tribunal, noticing this fact, also has taken the view that the entire period, that is when the person was appointed, the temporary status and to the date of absorption in regular service, has to be taken as a whole and this decision of the Tribunal has been affirmed by the Patna High Court. Similar view was that of the Andhra Pradesh High Court and the matter was not interfered with by the Apex Court.

3 In view of the aforesaid, Tribunal directed that the entire period that is 16.03.1975 to 31.03.1996, be taken as qualifying period for the purposes of pension and, accordingly, directions were issued. Railway is aggrieved by this.

4 In view of the fact as we have noticed above, and fairly stated by Shri Anil Singh, learned counsel for the Railways that the Division Bench judgment of this Court being there and similar judgment of Andhra Pradesh High Court being there and they having not been interfered with by the Apex Court, we see no reason to interfere. This application is accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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