

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9119 of 2014

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1. Harendra Mahto, son of late Baidyanath Mahto, Village + Post - Sasaula Kala,
P.S. Mejorganj, District - Sitamarhi

.... Petitioner/s

Versus

1. The Union of India through its Secretary - cum - Commissioner Department of Railway, New Delhi
2. The Divisional Railway Manager, North Frontier Railway, Katihar
3. The Additional Divisional Railway Manager, North Frontier Railway, Katihar
4. The Senior Divisional Operations Manager, North Frontier Railway, Katihar
5. Sri R.K. Singh (Enquiry Officer), Assistant Operations Manager (Goods), North Frontier Railway, Katihar
6. Sri Nand Kishore Sah, Station Superintendent (Incharge) - cum - Station Master, Gaisal Railway Station, North Frontier Railway, Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar, Advocate.

For the Respondent/s : Mr. Anil Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-03-2016

The challenge in the present writ petition is to an order passed by the Central Administrative Tribunal, Patna Bench, Patna, on 13th February, 2014, whereby an application for condonation of delay for restoration of his Original Application, earlier dismissed on 6th July, 2009, remained unsuccessful.

2. The petitioner was an Assistant Station Master, posted at Gaisal Railway Station. An accident took place between Train Nos. 5610 UP and 4055 on 2nd August, 1999, at about 1.30 A.M. The assertion of the petitioner is that he was not on duty and came to the place of occurrence at 2.15 A.M in the night dress. But, in the departmental enquiry, initiated in respect of the conduct of the petitioner, the enquiry officer submitted report on 16th January, 2002, wherein it

was found that the collision had occurred on account of negligence of the petitioner. Consequently, he was dismissed from service. The petitioner filed an Original Application before the Tribunal, which was dismissed for want of prosecution on 6th July, 2009, but after 3 ½ years the petitioner filed an application for restoration of the Original Application, which was dismissed by the order impugned in the writ petition.

3. The sole argument raised by the petitioner is that he was not on duty on the date of accident and, therefore, he is entitled to one opportunity to agitate the order passed in the department proceeding, before the Tribunal.

4. We find that the conduct of the proceeding before the Tribunal was that of utter negligence. Learned counsel for the petitioner had not appeared before the Tribunal on number of occasions. Subsequently, the Original Application was dismissed. Thereafter, the petitioner has taken more than three years to file an application for restoration. The same has been rightly declined by the Tribunal. The conduct of the petitioner before approaching the Tribunal and thereafter does not inspire confidence to show that he was prosecuting his grievances in bona-fide manner which may warrant interference by this Court in extraordinary writ jurisdiction.

5. The writ petition is, accordingly, dismissed.

(Hemant Gupta, J)

B.K.Roy/-

(Navaniti Prasad Singh, J)

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