

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10240 of 2016

Union of India through General Manager, East Central Railway, having its Office at Hajipur, P.O. P.S. Town Hajipur, District-Vaishali

.... Petitioner/s

Versus

1. The Registrar, Railway Claim Tribunal, having its office At Mahendrughat, Patna.
2. Smt. Anjani Devi, W/o Late Subhash Chandra Shukla, R/o Village Gogri, Brahman Tola, P.S. Gogri, District-Khagaria

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Counsel, A.S.G.
Mr. Rakesh Kumar Sinha, Adv

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 11-07-2016

Heard Mr. S.D. Sanjay, A.S.G., in support of the writ application filed under Article 226 of the Constitution of Indian to question the pregnability of the order dated 06.05.2016 passed by the learned Member, Judicial, Railway Claim Tribunal (for short “The Tribunal”), Patna in O.A. No. 328 of 2011, in so far as he directs for personal appearance of the General Manager, East Central Railway Hajipur. The petitioner filed an application before the Tribunal (Annexure-2) for recall of the order of personal appearance which was considered and rejected by the order dated 23.05.2016 (Annexure-3). The said order is also under challenge.

It has been submitted that under the provisions of the Railway Claims Tribunal Act (for short “The Act”) the procedure is



prescribed. If the respondent authority fails to produce the evidence or any material, the Tribunal can proceed ex-parte and pass an order to be implemented by the concerned opposite parties. The Tribunal has exceeded its jurisdiction in directing appearance of the officer of the level of General Manager. Particularly when the respondent-Tribunal does not exercise any preliminary jurisdiction.

The petitioner has relied on Section 18 of the Act as well as the order dated 10.03.2015 passed by a Division Bench of this Court in C.W.J.C. No. 3041 of 2015 (Annexure-4). The Court hearing the writ application raising the analogous issue observed in paragraph 6 & 7 thereof as under:

“6. We take serious exception to the manner in which the Tribunal conducted the proceedings in the O.A. The very purpose of constituting a Tribunal was to ensure that the claims of the claimants are disposed of at the earliest. By any standard, a period of ten years during which the O.A. was pending, cannot be justified. The Tribunal was expected to speed up the disposal by making extra efforts.

7. In case the appellant, who figured as respondent in the Original Application, did not file any counter or any satisfactory reply, the Tribunal could have passed the order on merits and disposed of the O.A. itself. Neither any evidence was recorded nor any further steps were taken. It has passed the order under appeal which does not at all fit into the mechanism of adjudication of the disputes by the Tribunal. Ignoring the fact that he is only heading a

Tribunal, the Presiding Officer appears to have felt that he is the ultimate Supervisory Authority vested with the powers to pass any order of his choice. We do not approve such an exercise.”

On going through the pleadings on record and after looking to the order(s) under challenge, I am satisfied that the order dated 23.05.2016 passed by the Railway Claim Tribunal Patna merits to be interfered with. The writ application is allowed. The order dated 06.05.2016, passed by the Tribunal is quashed. Needless to observe that the Tribunal shall now proceed to dispose of the pending original application on his file in accordance with law.

No order as to cost(s).

(Kishore Kumar Mandal, J)

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