

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11415 of 2014

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1. The Union of India through General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar)
 2. The Divisional Railway Manager, East Central Railway, Danapur.
 3. The Divisional Railway Manager (P), East Central Railway, Danapur.
 4. The Senior Divisional Engineer (Co-ordination), East Central Railway, Danapur.
 5. The Senior Divisional Financial Manager, East Central Railway, Danapur.
 6. The Senior Section Engineer (Works), East Central Railway, Buxer.

.... Petitioners

Versus

1. Md. Moharram, son of late Hanif, Ex trackman under section Engineer (P.Way), East Central Railway, Buxer, resident of Village- Ismailpur, Post- Gajadharganj, District- Buxer (Bihar).
2. Ram Surat, son of Rupa, Ex-mate under section Engineer (p.way), East Central Railway, Buxer, resident of village Parasia, Post- Kulhariya, District- Buxer (Bihar)
3. Ramji, son of Ramadahin, Ex-trackman under section Engineer (p.Way), East Central Railway, Buxer, resident of village- Deokali, Post- Deokali, District- Gazipur.
4. Kailash, son of Sagar, Ex trackman under section Engineer (P.Way), East Central Railway, Buxer, resident of village- Deokali, Post- Deokali District- Gazipur.
5. Lalji, son of Mohangoo, Ex trackman under section Engineer (P.Way), East Central Railway, Buxer, resident of village & post- Deokali, District- Gazipur.

.... Respondents

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Appearance :

For the Petitioners : Mr. Rishi Raj Sinha, Advocate.
For the Respondents : Mr.

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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: 18-04-2016

Heard learned counsel for the petitioners and the respondents.

2. The challenge in the present writ application is to an order dated 4th of December, 2012 passed by the Central



Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) in O.A. No. 572 of 2012, whereby the petitioners were directed to release pension and other benefits after treating 100 per cent of service rendered under temporary status and 50 per cent of the service as casual labourers for the purposes of calculation of pension and to pay the arrears along with interest at the rate of 12 per cent *per annum* from the date of retirement of the respondents till payment.

3. The argument of learned counsel for the petitioners is that in terms of Rule 107 of the Railway Service (Pension) Rules, 1993, the qualifying service includes temporary service followed by confirmation excluding leave without pay other than covered by medical certificate, apprentice/under age superannuation are to be treated as other than duties/strike period not treated as dies non. Thus, it is contended that the respondents have not completed the period of qualifying service of 33 years, whereas the Tribunal has not put any such cap on the period while directing the petitioners to pay the pensionary benefits. It is argued that though the Special Leave to Appeal (Civil) No. 20041 of 2008 (Union of India & Ors. Vs. Sarju) stands dismissed by the Hon’ble Supreme Court but the period of retiral benefits has to be in accordance with the Statutory rules.

4. We do not find any merit in the writ application. The matter in issue stands decided. Even the Special Leave Petition in

an identical matter stands dismissed. Therefore, while dismissing the present writ application, we grant liberty to the present petitioners to calculate the pensionary benefits in terms of the direction of the Tribunal and keeping in view Railway Service (Pension) Rules, 1993.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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