

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5987 of 2015

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Gopal Rai, Son of Late Ram Bilas Rai, Resident of village Keshawpur, P.O. Dolil (Sakara), P.S.- Doli (Sakara), District-Muzaffarpur.

.... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Zonal Office, Hajipur, Bihar.
2. The General Manager (Personnel), East Central Railway, Zonal Office, Hajipur, Bihar.
3. The Assistant Electrical Engineer-cum-Disciplinary Officer, East Central Railway, Zonal Office, Hajipur, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Asha Kumari, Advocate

For the Respondent/s : 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: 21-06-2016

The order dated 09.03.2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') is the subject matter of challenge in the present writ petition. By the aforesaid order, an Original Application filed by the petitioner challenging the order of dismissal on 23.07.2007 was found to be suffered from vice of limitation.

The sole argument raised by the learned counsel for the petitioner is that the order of dismissal was not served upon the petitioner, therefore, there cannot be any delay in challenging the

order of dismissal.

We do not find any merit in the said argument. The services of the petitioner were dismissed for the reason that he remained absent in the years 2004-05. A show cause notice was served on 16.07.2005. It is thereafter an order of dismissal was passed. Since the petitioner was absent from duty, therefore, the actual service of the order of dismissal is not relevant as in any case the petitioner was abstaining from duty. Had the petitioner vigilant, he would have reported for duty in the year 2004 or 2005 or any time after the order of dismissal was passed. Since he never reported for duty all these years, therefore, we do not find any error in the order passed by the Tribunal holding that the Original Application filed by the petitioner is hopelessly barred by limitation.

Consequently, the writ petition stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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