

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10663 of 2014

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1. Most. Itwari Devi wife of late Chandeshwar Ram, resident of village- Arap, P.O. Arap, P.S. Vikram, Dist- Patna

.... Petitioner/s

Versus

1. The Union of India through the Secretary, the department of Ministry of Railway and Aviation, New Delhi, Rail Bhawan, New Delhi
2. The General Manager, Eastern Railway Farluplece Kolkatta (West Bengal)
3. The Divisional Railway Manager, Danapur D.R.N. Office, Danapur (Khagaul), Patna
4. The Accounts Officer Divisional Railway Manager Office Danapur (Khagaul) Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gauri Shankar Prasad,Adv.

For the Respondent/s : Mr. Siddharth Prasad,Adv.

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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

I.A.No. 7490 of 2015

The Application is to implead the legal heirs of Mst. Itwariya Devi, who died during the pendency of the writ petition. The legal heirs have filed the present Application for their impleadment to continue with the action initiated by Mst. Itwariya Devi, as cause of action survives to them.

2. In view of the assertion made by them, the applicants are ordered to be impleaded to represent the estate of the deceased.

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1. The challenge in the present writ petition is to an order dated 6th February, 2014, passed by the Central Administrative Tribunal, Patna Bench,

Patna, whereby the claim of the petitioner for non-payment of salary from November, 1980 to August 1982 was found to be hopelessly barred by limitation.

2. The husband of the petitioner Chandeshwar Ram died on 2nd July, 1990, when he was posted as Station Master, Howrah.

3. The grievance of the petitioner is that her husband was not paid salary from November 1980 to August 1982. Therefore, she claimed for payment of salary due and admissible to her husband. The petitioner relied on the order of this Court dated 16-12-1991 passed in M.J.C. No. 78 of 1991. The said order reads as under:-

“The contempt application is for alleged violation of the order dated 7th September, 1982 and also the order dated 21st May, 1981 passed by this Court. This is in respect of the claim of payment of salary November, 1980 to August, 1982.

Contempt jurisdiction should be exercised with caution and care. Where it is necessary, the Court should not hesitate to take action but where it appears that it is in connection with same stale matter, Court should not exercise its discretion in the matter. Under these circumstances, we are not inclined to entertain this petition and accordingly this application is disposed of without passing any order. However, it is our desire that if any amount is due by way of salary to the petitioner, inspite of the order in this matter, the Railway Authorities should pay that salary immediately.”

4. The husband of the petitioner filed C.W.J.C. No. 2812 of 1980 in which an interim direction was given on 21-5-1981 to the concerned authority to accept the joining report of her husband and pay him his salary. Such writ application was disposed of on 7th September, 1982. The said writ petition was filed challenging the transfer of her husband from the post of Station Master to the Assistant Station Master.

5. We find that the claim is for the salary for the period November, 1980 to August 1982. Such claim was not agitated by her husband during his life

time before he died on 2nd July, 1990 or by his wife for almost 22 years after the death of her husband. Such claim has been rightly not entertained by the Tribunal as barred by limitation.

6. We do not find any error in the order of the Tribunal. The writ petition is, accordingly, dismissed.

(Hemant Gupta, J)

B.K.Roy/-

(Navaniti Prasad Singh, J)

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