

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8524 of 2016

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Mala Devi, wife of late Om Prakash Maharaja, resident of Quarter No.184 (Kha),
Eastern Railway Colony, Garhara, P.S. Barauni in the District of Begusarai.

.... Petitioner

Versus

1. The Union of India through General Manager, East Central Railway, Hajipur,
P.O. & P.S. Hajipur, District-Hajipur.
2. The Chief Personnel Officer, East Central Railway, Hajipur, P.O.&P.S.,
Hajipur, District-Hajipur, Vaishali.
3. The Divisional Manager (D.R.M.) East Central Railway, P.O.& P.S. Khagaul,
Danapur, District-Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Aushotosh Jha, Advocate
Mr. Braj Nandan Kumar Tiwary, 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: 12-05-2016

The order dated 23rd December, 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A./050/00276/2014 is subject matter of challenge in the present writ application whereby the claim of family pension on account of death of husband of the petitioner was declined.

2. The husband of the petitioner was absorbed as Shuntman.

He was working as Goods Guard when he died in harness on completion of 9 years, 8 months and 26 days of service. The stand of respondents in the written statement was that the husband of the petitioner was to be appointed as a Hot Weather Staff. His screening for regularization was held but the outcome of the screening test could not be finalized. Thus, it was asserted that the services of the husband of the petitioner were not regularized and he was not posted on regular basis. In view of the said fact, he was not entitled to retrial benefits.

3. Learned counsel for the petitioner refers to Supreme Court judgment reported as Prabhavati Devi Versus Union of India & Ors., AIR 1996 SC 752 to contend that the petitioner is entitled to family pension. However, such judgment is not applicable because that was a case where temporary status was conferred on the employee having worked in the Railways for more than one year continuously.

4. In fact, Hon'ble Supreme Court in the case of Uttar Haryana Bijli Vitran Nigam Vs. Surji Devi, (2008) 2 SCC 310, examined the right of claim of family pension in respect of an employee whose services were not regularized. It has been held that family pension is not admissible to the wife, if the husband has died prior to regularization.

5. Alternatively, even if the husband of the petitioner is taken to be absorbed as Shuntman, the service rendered is 9 years, 8

months and 26 days. Thus, the service rendered is less than 10 years which is minimum qualifying service for payment of family pension. In either situation, the petitioner is not entitled to family pension.

6. In view thereof, we do not find any merit in the writ application and the same is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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