

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24771 of 2013

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1. The Union of India through the General Manager, Eastern Railway, 17, N.S. Road, Kolkata - 1
 2. The CAO (Con), Eastern Railway, Kolkata
 3. The FA and CAO, Eastern Railway, Kolkata
 4. The District Engineer (Con), Eastern Railway, Asansol
 5. The Dy. Chief Engineer (Con) II, Eastern Railway, Gholeshapur, Kolkata - 34
 6. The Dy Chief Engineer (Con) Eastern Railwa, Dugda
 7. The D.O.S. (T) and Emergency Officer, Eastern Railway, Barkakana
 8. The Assistant Engineer (Con) Eastern Railway, Latehar
 9. The Assistant Engineer (Con), Eastern Railway, Daltonganj

.... Petitioner/s

Versus

Smt. Naina Devi, Wife of Late Ucheshwar, Resident of Village - Kurro,
P.O. Baunsi, P.S. - Baunsi, District - Banka (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Singh, Advocate

For the Respondent/s : Mr. Siya Ram Shahi, Advocate

Mr. Ram Sewak Choudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

3 29-01-2016 Railways have filed this writ petition being aggrieved by the judgment of the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the Tribunal) dated 7th May, 2013 passed in O.A. No. 437/2008.

Respondent has appeared and with consent of the parties this matter is being disposed of at this stage itself.

The dispute is with regard to pensionable period calculable in respect of the husband of the respondent. It is not in dispute that the husband of the respondent was appointed in the



year 1958 and was working as Project Casual Labour till 1975 when he was brought in the regular establishment. He retired in 1998. There is no dispute for the period 1975 to 1998, which period is counted 100% for retiral benefits. The dispute is for the period 1958 to 1975. The respondent had contended that having worked for more than 120 days the employee would get temporary status and having acquired temporary status 50% of the service in this status would be counted for pensionary benefits. The contention of the Railways was that in terms of Rule 20 of the Master Circular No. 54 of 1994, the question of grant of temporary status arises only after 01.01.1981. By that day the husband of the respondent had already been regularised. A Project Casual Labour could not get temporary status at all prior to 01.01.1981. The Tribunal though held that the applicant before him had not attained the temporary status and could not be given benefit thereof but without any supporting material it made an observation that the period prior to regularization i.e. period for which he was working as Project Casual Labour, 50% thereof should be taken into account for pensionary benefits.

We have heard the parties and we are of the view that the Tribunal was clearly wrong. Paragraph 20 of the Master Circular 54 of 1994 reads as follows :

“20 Counting of the period of service of casual labour for pensionary benefits:- Half of the period

of service of a casual labour (either than casual labour employed on Projects) after attainment of temporary status on completion of 120 days continuous service if it is followed by absorption in service as regular railway employee, counts for pensionary benefits. With effect from 1.1.1981, the benefit has also been extended to Project Casual Labour.”

A plain reading of the said paragraph and especially the last line thereof makes thing abundantly clear that prior to 01.01.1981 there was no benefit of temporary status available to Project Casual Labour and if that benefit was not available then there was no question of getting 50% benefit of the period, for pensionary benefits. This is exactly what has been held by the Apex Court in the case of ***Union of India and others Vs. K.G. Radhakrishana Panickar and others since reported in (1998) 5 Supreme Court Cases 111.***

Thus, we are unable to uphold the order of the Tribunal dated 7th May, 2013, the same is set aside and thus the Original Application filed by and on behalf of the husband of the respondent is dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

Arjun/Rajesh/A.F.R.

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