

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11433 of 2017

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1. The Union Of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
 2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali (Bihar).
 3. The Divisional Railway Manager, East Central Railway, Mugalsarai.
 4. The Divisional Railway Manager (Personnel), East Central Railway, Mugalsarai.
 5. The Senior Divisional Engineer (Co-ordination), East Central Railway, Mugalsarai.
 6. The Senior Divisional Financial Manager, East Central Railway, Mugalsarai.
 7. The Section Engineer (P.Way), East Central Railway, Gaya (Bihar).

... .. Petitioner/s

Versus

Smt. Yashoda Devi, wife of Late Makeswar, Ex-Trackman, under Section Engineer (P. Way), East Central Railway, Gaya, resident of village – Kadipur, Post – Belhari, District - Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar Sinha Sr. Advocate Mr. Bijoy Kumar Sinha Advocate
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 21-12-2017

Nobody appears on behalf of the private-respondent.

Heard learned senior counsel representing the Railways.

Perused the order, dated 19.10.2016, passed by the Central



Administrative Tribunal, Patna Bench, Patna in O. P. No. 266 of 2013.

The Tribunal obviously seems to have erred in directing the respondents to account 100 per cent period rendered in temporary status from 01.01.1981 and 50 per cent service rendered as casual labourer from 01.12.1972 along with the 100 per cent period after regularization till the date of superannuation for calculation of arrears and payments with interest of 8 per cent.

The Court, keeping in mind the decision rendered in the case of *Union of India Vs. Rakesh Kumar, reported in 2017 (3) PLJR SC 83* sets aside the impugned order with a modification that the calculation will be required to be done in terms of what the Apex Court has laid down in paragraph 55 of the said judgement, which reads as under:

“55. In view of forgoing discussion, we hold:

(i) the casual worker after obtaining temporary status is entitled to reckon 50 % of his services till he is regularized on a regular / temporary post for the purposes of calculation of pension.

(ii) the casual worker before obtaining the temporary status is also entitled to reckon 50 % of casual service for purposes of pension.

(iii) those casual workers who are appointed to any post either substantively or



in officiating or in temporary capacity are entitled to reckon the entire period from date of taking charge to such post as per Rule 20 of Rules, 1993.

(iv) It is open to Pension Sanctioning Authority to recommend for relaxation in deserving case to the Railway Board for dispensing with or relaxing requirement of any rule with regard to those casual workers who have been subsequently absorbed against the post and do not fulfill the requirement of existing rule for grant of pension, in deserving cases. On a request made in writing, the Pension Sanctioning Authority shall consider as to whether any particular case deserves to be considered for recommendation for relaxation under Rule 107 of Rules, 1993.”

The Writ Application stands allowed in terms of above.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	22.12.2017
Transmission Date	

