

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11269 of 2017

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Kamla Devi, W/o Late Ram Naresh Roy, Resident of Village- Dulatpur,
P.O. and P.S. Jamalpur, District- Munger.

.... Petitioner

Versus

1. The Union of India through the General Manager, Eastern Railway,
Fairly Place, Netajee Subhash Road, Kolkata.
2. The Chief Personnel Officer, Eastern Railway, 14 th Standing Road,
3rd Floor, Kolkata.
3. The Fa & Cao, Eastern Railway, 14th Stand Road, 3rd Floor Kolkata.
4. The Works Floor Manager, Jamalpur Workshop, Eastern Railway,
Jamalpur.
5. The Chief Works Manager, Eastern Railway Workshop, Jamalpur,
Munger.
6. The Workshop Personnel Officer, Eastern Railway, Jamalpur,
Munger.
7. The Deputy CAO/F, Eastern Railway, Jamalpur Workshop, Munger.
8. The Welfare Inspector, Railway Workshop, Jamalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Prabhakar Singh, Advocate
For the Respondents : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 07-09-2017

Heard learned counsel for the petitioner and

learned counsel for the respondents.

2. There has to be some element of fairness in any

adjudication and proper opportunity has to be given to the



contesting parties, before a Court can accept any declaration or judgment on the face value.

3. The origin of the present dispute relates to the year 1983, when the so-called husband of the present petitioner died in harness, she claims to be the sole legal married wife with three children, but it seems that there was one another lady namely, Chhabi Roy @ Devika Roy, who claims to be the legally married wife, if not the first wife. The litigation continued thereafter and has carried on till date before one forum or the other.

4. In the earlier round of litigation for succession, Chhabi Roy was also given a declaration as one of the claimants and successor-in-interest of the late employee along with the children of the present petitioner. That order traveled up till the High Court in a Civil Revision. The High Court, on technicality, remanded the matter for consideration on a limited issue. It seems that thereafter Chhabi Roy was not noticed by the Court below and only going by the record that she had withdrawn some of the papers in the year 2004 initially tendered before the Court and has not appeared, decided to allow the succession



certificate for second time over ignoring her claim.

5. Since the matter was sent back by the High Court on remand it was the duty of the Court below to issue notice to Chhabi Roy. When the issue was already settled and decided from the Court below and it got revived because of an order of remand many many years down the line, the Court below, therefore, has obviously failed in its duty to be fair to all the sides who are contesting in the proceeding.

6. The present petitioner armed with a second round of declaration of succession approached the authorities who decided to grant the benefit not ignoring the claim of Chhabi Roy. However, the petitioner does not seem to be satisfied, on the ground that Chhabi Roy has no claim and she has no status to be granted any benefit and the benefit must accrue in entirety in favour of the present petitioner.

7. With due respect to learned counsel appearing for the petitioner, the Court is not satisfied in the above circumstances that a case is made out for a direction for grant of benefit 100% in her favour. The Tribunal has taken detailed note of the previous litigations and orders which have come to be passed from time to time and taking into



consideration the entirety of the matter has given direction upon the Railway authorities to settle the legitimate claim of the present petitioner to the extent as permissible within the framework of the dispute as well as entitlement.

8. It is also evident that the present petitioner in fact happens to be second wife and any insinuation or allegation with regard to the first wife was basically made with the object of cornering the benefit. The Tribunal, in the given facts, has reached the right conclusion and no benefit beyond the same is required to be extended to the present petitioner, on the facts and the law.

9. The writ application is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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