

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18768 of 2016

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Vikash Kumar Son of Ranjeet Singh, resident of Mohalla- Brahmpura, P.O. MIT Muzaffarpur, P.S.- Brahampura, District- Muzaffarpur, presently Secretary of Purvottar Railway Loco handling Shramik Sahiyog Samiti.

.... Petitioner/s

Versus

1. The Union of India through General Manager, East Central Railway, Hazipur.
2. The General Manager, East Central Railway Hazipur.
3. The Chief Commercial Manager, East Central Railway Hazipur.
4. The Divisional Railway Manager, Sonapur Division, Sonapur.
5. The Senior Divisional Commercial Manager Sonapur, Division, Sonapur.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Ashok Kr. Mishra and
Lakshman Lal Pandey, Advs.

For the Respondent/s : Mr. Nishi Nath Ojha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 27-04-2017 Heard learned counsel for the petitioner and learned
counsel for the respondent.

In this case, the petitioner is seeking the payment of the amount of Rs. 2,77,785/- and out of that Rs. 1,20,787/- has been deducted, which has been kept by the Railway for the purposes of payment of wages to the worker, who were employed by the petitioner.

The petitioner is a Contractor, having been allotted the Work Order for the purposes of carriage work of Rs.5,76,354/- and ultimately, after deducting the amount of Rs. 2,77,785/-, which is the amount of the wages of the labourers, the petitioner has been paid an amount of Rs. 2,98,569/-.



The counsel for the petitioner submits that the Railway should not have deducted the aforesaid amount, as the order passed by the Regional Labour Commissioner, Patna has been stayed by this Court in C.W.J.C. No. 14151 of 2008, on that strength, the counsel for the petitioner submits that the Railway should be directed to release the amount of Rs. 2,77,785/-. He further submits that Rs.2,98,569/- has already been paid by the petitioner.

The statement of the petitioner is not acceptable to the Court on account of the fact that the writ petition is still pending, granting stay does not mean that the petition has been allowed in his favour, when a competent authority has adjudicated the amount of the labourers and if the present petitioner flees away from the side, it is the principal employer will be caught for payment of the wages of the worker. If the Railway has kept that amount of the worker, they have not committed any wrong as well as in terms of contract, clause 28, if the petitioner would succeed in the writ application, the Railway will be obliged to return the amount of Rs. 2,77,785/- to the petitioner but if he fails that amount will be paid to the worker.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

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