

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12459 of 2017**

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1. The Union Of India through the General Manager, East Central Railway, Hajipur, District- Vaishali.
  2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali.
  3. The Financial Advisor & Chief Accounts Officer, East Central Railway, Hajipur, District Vaishali.
  4. The Divisional Railway Manager, East Central Railway, Danapur, District- Patna.
  5. The Senior Divisional Personnel Officer, East Central Railway, Danapur, District- Patna.
  6. The Senior Divisional Engineer (co-ordination) East Central Railway, Danapur, District- Patna.
  7. The Senior Divisional Financial Manager, East Central Railway, Danapur, District- Patna.

... .. Petitioner/s

Versus

1. Ramjee, S/o Late Ram Narayan, Ex Chowkidar under Senior section engineer (works) East Central Railway, Danapur District- Patna, Resident of Village- Jagdishpur, Post- Nadaon, District- Buxar (Bihar).
2. Ram Bachan, S/o Late Mahadeo, Ex MCM under Senior Section Engineer (Works), East Central Railway, Buxar, Resident of Village- Jagdishpur, Post- Nadaon, District- Buxar (Bihar).
3. Nand Bihari, S/o Late Ram Kishore, Ex trackman under senior section engineer (P.way), East Central railway, Arah, resident of Village- Jagdishpur, Post Nadaon, District- Buxar (Bihar).

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ashok Kumar Keshri<br>Advocate<br>Mr. Brajesh Kumar<br>Advocate |
| For the Respondent/s | : | Mr.                                                                 |

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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 : 21-12-2017**

Nobody appears on behalf of the private-respondent.

Heard learned senior counsel representing the Railways.

Perused the order, dated 29.03.2017, passed by the Central



Administrative Tribunal, Patna Bench, Patna in O. P. No. 740 of 2016.

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/-

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