

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.295 of 2017

In
Civil Writ Jurisdiction Case No.10964 of 2016

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1. The Union Of India through the General Manager, E.C. Railway, Hajipur, Bihar.
 2. The Divisional Personal Officer, E.C. Railway, Mugalsarai.
 3. The Divisional Railway Manager, E.C. Railway, Mugalsarai.
 4. The Assistant Engineer, E.C. Railway, Dehri-on-Sone, Rohtas at Sasaram.
 5. The Railway Inspector, E.C. Railway, Dehri-on-Sone, Rohtas at Sasaram.

... .. Petitioners

Versus

Ram Bart Son of late Deok @ Deoki R/o Village- Kuraipur, P.O. & P.S.- Obra, District- Aurangabad.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Shekhar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

6 02-05-2018 Heard learned counsel for the parties.

In view of the development in law as well as the ratio, which has been laid down by the Hon'ble Apex Court in the case of *Union of India & Ors. Vrs. Rakesh Kumar & Ors.*, reported in **2017(3) PLJR (SC) 83** and especially what the Hon'ble Apex Court had had to say in following words, especially in paragraph 55, which is reproduced hereinbelow:

“55. In view of foregoing 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.”

a case for review of order is made out. Further, the order passed by the Central Administrative Tribunal in O.A. No. 050/00110 of 2015 is also modified and read down that the direction of the Tribunal in relation to the calculation of the period of past service in temporary capacity will have to be worked out in conformity with what the Hon'ble Supreme Court had said in the case of Rakesh Kumar (supra), especially in



paragraph 55, which has been quoted in earlier part of the order.

The review application stands allowed in terms of
above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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