

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.135 of 2017

1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
2. The Divisional Railway Manager, East Central Railway, Danapur, P.O.- Khagaul, District- Patna (Bihar).
3. The Senior Divisional Personnel Officer, East Central Railway, Danapur, P.O.- Khagaul, District- Patna (Bihar).
4. The Senior Divisional Engineer (Coordination), East Central Railway, Danapur, P.O.- Khagaul, District- Patna (Bihar).
5. The Senior Divisional Financial Manager, East Central Railway, Danapur, P.O.- Khagaul, District- Patna (Bihar).
6. The Assistant Engineer, East Central Railway, Mokama (Bihar).
7. The Assistant Divisional Medical Officer, Railway Hospital, East Central Railway, Danapur, P.O.- Khagaul, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. Shree Shankar Ram S/o Late Malika Devi Resident of Village Maranchi, Gandhi Tola, P.O.- Maranchi, Gandhi Tola, District- Patna Bihar.
 2. Sri Rajendra Ram
 3. Sri Sunil Ram
- Both S/o late Malika Devi All Resident of Village Maranchi, Gandhi Tola, P.O.- Maranchi, Gandhi Tola, District- Patna Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Verma, Sr. Advocate
		Mr. Anjani Kumar Sharan, Advocate
For the Respondent/s	:	Mr. M.P. Dixit, Advocate
		Mr. S.K. Dixit, Advocate
		Mr. Sanjay Kumar Chaubey, Advocate
		Mrs. Swastika, Advocate
		Mr. Shailendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 25-09-2018

Heard Mr. Prabhat Kumar Verma, learned Senior
counsel, who appears along with Mr. Anjani Kumar Sharan,
for the Railways, the petitioner herein and Mr. M.P. Dixit



appearing for the respondents, who are the substituted heirs of the original applicant before the Central Administrative Tribunal, Patna.

2. This writ petition arises from a judgment and order of the Central Administrative Tribunal, Patna Bench, Patna in OA No. 362/2011 (Smt. Malika Devi Vs. Union of India and Ors.) whereby the claim of the applicant for release of her family pension was allowed. We do not intend to examine the inter-party contest arising in the present writ petition, on merits, because of the subsequent development which has been taken place during the pendency of the writ petition.

3. The applicant before the Tribunal, who is the widow of the Railway employee, has since deceased on 01.11.2016 and has been substituted under the order of this Court passed in I.A. No. 7520/2017 by her legal heirs. The order passed by the Tribunal would confirm that the issue raised and contested there before is, whether or not the applicant was entitled to family pension being the widow of the Contingency Paid Casual Khalasi. The claim was upheld by the Tribunal by the judgment and order impugned and



feeling aggrieved the Railways together with its functionaries are before this Court.

4. As we have observed at the outset even before the matter could be adjudicated on the merits that the original applicant has since deceased and according to Mr. M.P. Dixit learned counsel representing her, the deceased applicant has drawn her family pension until her death on 1st November, 2016 by virtue of the order and judgment passed by the Tribunal impugned herein.

5. Since the judgment and order of the Tribunal impugned herein has taken its effect and the benefit arising thereunder has also reached the applicant until her death, whereafter the payment of family pension has stopped, we would not be required to express our opinion on the issue, which has been rendered academic by the death of the applicant. Considering that the family pension has been paid by the Railways to the deceased applicant in obedience of the order of the Tribunal even when they were contesting the matter before this Court, even for assumption sake, if they would succeed in this appeal yet, there can be no issue of recovery after the death of the applicant pensioner.



In the circumstances noted above, we do not intend to engage ourselves in an academic discussion on the issue raised by the Railways but would definitely leave it open for contest, in an appropriate case, if the need arises.

6. With the observation aforementioned, we dispose of this application.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Rajesh/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2018
Transmission Date	NA

