

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.403 of 2017

In

Civil Writ Jurisdiction Case No.14067 of 2016

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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.
 3. The Divisional Railway Manager (P), East Central Railway, Danapur.
 4. The Senior Divisional Engineer (Co-ordination), East Central Railway, Danapur.
 5. The Senior Division Financial Manager, East Central Railway, Danapur.
 6. The Senior Section Engineer (Works), East Central Railway, Buxar.

... .. Petitioner/s

Versus

Ram Niwas son of Late Sheo Pujan Ex. Carpenter under Senior Section Engineer (Works), East Central Railway, Buxar resident of Village/Post - Ahirauli, District - Buxar (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate
Mr. Manish Prakash, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 12-04-2018

The present civil review application has been filed in view of certain legal developments which has taken place on the issue as to how the retiral benefits are going to be worked out for casual or temporary employees working for the Railways.

The Hon'ble Supreme Court on 24.03.2017 decided the case of *Union of India & Ors. Vs. Rakesh Kumar & Ors.* reported



in **2017(3) PLJR 83(SC)** since there were diverse opinions of different High Courts as to how the period is to be calculated and counted. After considering different decisions, the view of the Hon'ble Apex Court has been crystallized on the issue in paragraph 55 of the said decision, which reads as under :

“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.”



In view of the settled law, now the entitlement of the private respondent in matter of settlement of his retiral dues has to be made in terms of the Supreme Court decision referred to in the earlier part of the order and to that extent the order dated 17.03.2017 affirming the order of the Central Administrative Tribunal in OA 558 of 2012 will be required to be modified.

It is also taken note of that despite valid service of notice the private respondent has chosen not to appear, therefore, the review application is allowed in terms of the Supreme Court decision and the formula culled out from paragraph 55 of the said judgment.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.04.2018
Transmission Date	NA

