

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3355 of 2019

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Podo Devi, W/o- Late Jagarnath Singh, R/O- Village- Bengali Tola,
Khushalpur, P.O.-Kehuniya, P.S.- Dist-Katihar.

... .. Petitioner/s

Versus

1. The Union of India through The Chairman, Railway Board, New Delhi.
2. The General Manager, North Frontier Railway Maligaon, Assam
3. The General Manager (P) North Frontier Railway Maligaon, Assam
4. The Chief Mechanical Engineer North Frontier Railway Maligaon ,Assam
5. The Director/DHR North Frontier Railway , New Jalpaiguri.
6. The Assistant Mechanical Engineer North Frontier Railway ,Tindhria
7. The Junior Engineer Gr-1, (C & W),NG/NJP, North Frontier, Railway

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kamlesh Kumar Pathak, Advocate Mr. Sanjay Kumar Mandal, Advocate
For the Respondent/s	:	Mr.Anil Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-05-2019

Heard learned counsel for the petitioner and the
learned counsel for the respondents.

2. We had adjourned the matter on the previous
occasion to enable the learned counsel for the petitioner to assist
the Court keeping in view the law laid down by the Apex Court
in the case of **Union of India and others Vs. Tarsem Singh,**
reported in (2008) 8 SCC 648 that has been relied upon by the
learned counsel for the respondent-Railways.



3. Today, learned counsel for the petitioner has invited the attention of the Court to Paragraph 7 of the said judgment to contend that even assuming for the sake of argument that this writ petition would not be entertainable on account of delay or laches, yet the relief can be modified keeping in view the observations made to the effect that the consequential reliefs can be restricted to a period of three years prior to the date of filing of the writ petition.

4. There is no dispute with regard to the said proposition, but the question is as to whether the relief prayed for by the petitioner was admissible keeping in view the background that the deceased employee had not been regularized.

5. We find from the records and as urged by the learned counsel for the Railways that the deceased employee even though had been engaged, but he was in the capacity of a substitute and his regularization could not conclude for whatever reasons. We are of the opinion that in the absence of the crystallization of any such rights as a regular employee, the very relief being inadmissible, the question of grant of any arrears in terms of the judgment of **Tarsem Singh** (supra) does not arise.



6. The writ petition, therefore, lacks merit and is accordingly rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	15.05.2019
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