

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3026 of 2019

Janardan Pandit S/o Late Budhi Ram Pandit Resident of Village New
Karbigahya New Shakuntala Utsav Hall Bus Stand Road,P.O G.P.O P.S
Jakkanpur,District Patna

... .. Petitioner/s

Versus

1. The Union of India through East Central Railway,Hazipur, Pin 800017
2. The Catering Commercial Manager, East Central Railway, Hazipur,pin-800017
3. The Divisional Railway Manager, East Central Railway, Danapur pin-800011
4. The Senior D.P.O East Central Railway Danapur,pin-800011
5. The Senior Divisional Commercial Manager East Central Railway Danapur pin-800011
6. The Senior Divisional Manager, East Central Railway, Danapur Pin-800011

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Satya Ranjan Sinha, Advocate
For the Respondent/s : Mr. Anjani Kumar Sharan, ASG

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

Date : 20-02-2019

Heard Shri Yugal Kishore, learned Senior counsel
for the petitioner and Shri Anjani Kumar Sharan, learned
counsel for the Railways.

2. The contention raised is that the deductions have
been made virtually under coercion, inasmuch as, since the
petitioner was in need of money in order to meet his medical
expenses he had no option in those circumstances except to give
his consent for receiving the Pension Payment Orders.

3. The argument of the learned Senior Counsel is



that after the show-cause was issued to the petitioner on 23rd October, 2017, he did give a reply to the same on 2nd of November, 2017.

4. The recital contained in the said letter dated 2nd November, 2017 is clear to the effect that the deductions be made from his pensionary benefits and the balance of the amount be paid to him. The said consent is not hedged by any protest or even a remote challenge to the show-cause that was issued to the petitioner. In the above circumstances, it cannot be said that the request made by the petitioner was not a waiver of any complaints in this regard. To the contrary, the petitioner did acquiesce to the situation, which he describes was under some coercion. There is no material to demonstrate that the petitioner was either under any undue influence or coercion which he described to be a desperate situation on account of his ailment. The consent letter dated 2nd November, 2017 nowhere indicates any such desperation as alleged. The Railways, therefore, cannot be said to be at fault in carrying out the deductions after having received the said consent, moreso, when the respondent Railways had issued a show-cause to the petitioner.

5. In the background aforesaid, we cannot find any fault with the conclusion arrived at by the Tribunal.



6. Learned counsel, however, submits that even otherwise, the Railways can be directed to hold an inquiry into the matter and the representation filed by the petitioner may be considered.

7. What appears from the show-cause is that a sum of Rs. 12,32,160/- was sought to be deducted from the pensionary benefits of the petitioner in the light of the letter of the General Manager, Hajipur dated 27th of March, 2017. The petitioner does not appear to have responded to the contents of such a letter dated 27th March, 2017. Learned counsel contends that the petitioner had not received the same. There is no such averment, and even otherwise after having received the show-cause the petitioner could have obtained the copy of the said letter dated 27th March, 2017 that depicted indication of recovery of the said amount. In the absence of any such contest having been put forth by the petitioner either to the contents of the show-cause or the letter dated 27th March, 2017, the plea for reopening the matter cannot be accepted.

8. Learned counsel then contends that as a matter of fact such dues were not against the petitioner but against his predecessor in office. The contention appears to be that any liability on the predecessor cannot be carried over so as to



realize the same from the petitioner. Learned counsel submits that the charge had not been handed over to the petitioner and, therefore, any such liability of his predecessor cannot be saddled on him.

9. It is open to the authority to make any inquiry into the same or fix the liability accordingly in the event there is any scope for such material so as to indicate the liability on the predecessor of the petitioner. In the event any such decision is taken up by the Railways, the dismissal of this writ petition shall not be any impediment for the passage of the petitioner.

10. The writ petition is consigned to records with the aforesaid observations.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

AFR/NAFR	
CAV DATE	
Uploading Date	21.02.2019
Transmission Date	

