

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19613 of 2019

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Madhusudan Gupta, aged about 50 years, male, Son of Late Kashi Naresh Prasad, Resident of Mohalla- Driver Tola, Veena Bhawan, P.O. and P.S. Katihar, District- Katihar.

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Railways, New Delhi.
2. The General Manager (P), N.E. Railway, Maligaon.
3. The Divisional Railway Manager, N.F. Railway, Katihar.
4. The Chief Personnel Officer, Katihar Division, Katihar.
5. The Senior Divisional Commercial Manager, N.F. Railway, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Qumrul Hoda, Advocate
For the Respondent/s : Mr. Ramadhar Shekhar, Addl. S.C., Railway

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 24-09-2019

Heard Mr. Md. Qumrul Hoda, learned Advocate
for the petitioner and Mr. Ramadhar Shekhar, learned
Advocate for the respondent/Railways.

2. The petitioner has challenged the order dated



25.09.2018, passed by the Central Administrative Tribunal, Patna Bench, Patna (*in short the CAT*) in O.A. No. 050/808/2017, whereby the prayer made on behalf of the petitioner for quashing the order dated 11.11.2015, issued by the office of D.R.M.(P)/KTR N.F. Railway and letter dated 27.06.2016, has been refused on the ground that family pension cannot be allowed to him beyond the policy of the respondents which permits of grant of family pension only in case the handicap/disability of the son of an employee prevents him from earning his livelihood.

3. From the records, it appears that the father of the petitioner served as a Guard with the respondent/Railways who retired in the year 1987. Thereafter, he had been receiving the pensionary benefits till his death on 06.12.1994. The petitioner applied for being paid family pension under the Railway Board Guidelines dated 21.12.2015 after several years of the retirement and death of his father.

4. On the application made by the writ-petitioner, he was examined by the Doctor of the Railways



and his case was also considered by the pension sanctioning authority. However, from the certificate issued by the Railways' Doctor, it was found that the writ-petitioner did not have right-eye vision and his handicap was assessed to the extent of 45% and, therefore, the earning capacity also was logically stated to have been reduced by 45%. The Rules in this regard specify that family pension would be admissible to a relative of an employee if he is not in a position to earn his livelihood at all because such of physical incapacity/handicap.

5. For the two reasons, *viz.*, the petitioner having applied for getting family pension after several years of the retirement and death of the employee and reduction of only 45% ability to earn his livelihood, the prayer made by the petitioner was rejected by the Railways Administration.

6. The CAT, on perusal of the Rules and the circumstance in which the order was passed, was of the view that no case was made out by the petitioner for any direction in the matter for grant of family pension.

7. We do not find any infirmity in the order



passed by the CAT.

8. The petition has no merits and is, accordingly,
dismissed.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

Praveen-II/Shageer

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.09.2019
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