

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13576 of 2017**

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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, 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 Section Engineer (Works), East Central Railway, Danapur.

... .. Petitioners

Versus

Smt. Suryapati Devi, Wife of Late Omprakash, Resident of Village-Adampur,  
P.O.-Khagaul, P.S.-Khagaul, District-Patna.

... .. Respondent

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**Appearance :**

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| For the Petitioners | : | Mr. Shekhar Singh, Advocate<br>Mr. Anjani Kumar Sharan, Advocate                                                 |
| For the Respondent  | : | Mr. M.P. Dixit, Advocate<br>Mr. S.K. Dixit, Advocate<br>Ms. Swastika, Advocate<br>Mr. Shailendra Kumar, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**and**  
**HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)**  
**Date : 08-01-2020**

Heard Mr. Shekhar Singh, learned counsel for the  
petitioners and Mr. M.P. Dixit, learned counsel for the  
respondent.



2. The present writ petition has been filed by the petitioners for quashing the order dated 22.02.2013 passed in OA No.776 of 2011 by the Central Administrative Tribunal, Patna Bench, Patna (for short 'Tribunal') whereby the Tribunal has disposed of the application with direction upon the authorities concerned that the fate of the respondent shall be governed by the writ petition pending before the High Court and respondents shall abide by the same in granting similar benefits to the respondents.

3. The brief facts of the case are that the husband of the respondent died on 25.08.1991 while working as Contingency Paid Casual Gangman in East Central Railway, Danapur. The respondent made an application for family pension after death of her husband which was sanctioned and she was getting the family pension upto December, 2003. Thereafter, with effect from January, 2004, her family pension was stopped.

4. Being aggrieved by the discontinuance of the family pension, the respondent preferred an application bearing O.A. No.532 of 2007 before the Tribunal. The Tribunal disposed of the aforesaid O.A. No.532 of 2007 vide order dated 24.10.2008 with following direction:-

“7. I have carefully gone through the pleadings



of this case and have considered the arguments of the ld. counsel of both the sides. Since this case is similar to the other three cases which have been decided by this Tribunal and in one case the order has been upheld by the Hon'ble High Court, Patna, this O.A. also has to be allowed and the same is accordingly allowed subject to the outcome of the SLP pending in the Hon'ble Supreme Court.

8. The respondents should immediately restore the family pension of the applicant and all the arrears from 1.1.2004 should be paid to the applicant along with 8 per cent interest as has been allowed in the case of Malka Devi and Phulwa Devi. The applicant will also be entitled to receive Rs.2500/- as cost from the respondents to meet the cost of litigation as was allowed earlier in the cases of Malka Devi and Phulwa Devi.”

5. In compliance of the aforesaid order dated 24.10.2008, the family pension of the respondent was restored and all the arrears from 01.01.2004 was paid to her along with 8 per cent interest. She continued to receive family pension till April, 2011.

6. In the meantime, on 16.04.2010, a show cause notice was issued to the respondent whereby she was directed to file her reply as to why her family pension be not stopped on the basis of judgment in case of **GM/NWR & Ors. vs. Chanda**



**Devi [(2008) 2 SCC 108].**

7. The respondent submitted her reply. Thereafter, once again, her family pension was stopped with effect from 04.04.2011.

8. Being aggrieved by the discontinuation of her family pension, the respondent approached the Tribunal vide O.A. No.776 of 2011. After hearing the parties in O.A. No.776 of 2011, the Tribunal disposed of the said application vide order dated 22.02.2013 with following direction:-

“Having considered the rival contention and pendency of the issue before the Hon’ble High Court at Patna, I dispose of the OA with direction upon the authorities concerned that the fate of this poor lady shall be governed by the writ pending before the Hon’ble High Court and respondents shall abide by the same in granting similar benefits to this widow.”

9. Being aggrieved by the order dated 22.02.2013 passed in O.A. No.776 of 2011, the petitioners have filed the instant writ petition before this Court.

10. Mr. Shekhar Singh, learned counsel appearing for the petitioners submitted that the respondent is not entitled to family pension as her husband’s service was not pensionable. He contended that the impugned order passed by the Tribunal is not sustainable in the eye of law, as the Tribunal failed to



appreciate the distinction between casual labour having temporary status and temporary railway servant. The pension rules under which railway employees are granted pension do not apply to casual employees conferred with temporary status, which protects only the service of the casual employees. Therefore, the widow of the casual labour is not entitled for family pension. He contended that the aforesaid facts has been upheld by the Hon'ble Supreme Court in case of **Chanda Devi** (supra).

11. *Per contra*, Mr. M.P. Dixit, learned counsel appearing for the respondent submitted that the writ petition filed by the petitioners is totally misconceived. He contended that by the order impugned the Tribunal has not decided the right to family pension in favour of the respondent. The Tribunal has simply observed that the case of the respondent shall be governed by the writ petition pending before the High Court in identical matters.

12. He contended that the case of one Smt. Siya Devi and Smt. Sakali Devi was identical to that of the respondent and in their case also, the pension was stopped by the petitioners placing reliance on the judgment of the Supreme Court in case of **Chanda Devi** (supra). They had also moved



before the Tribunal which allowed their case.

13. He submitted that the order of the Tribunal was challenged before this Court by Smt. Siya Devi and Smt. Sakali Devi vide CWJC No.19643 of 2012 and CWJC No.15508 of 2012 respectively. Both the writ petitions were heard together and vide order dated 22.01.2015, a Division Bench of this Court finding no basis to interfere with the order passed by the Tribunal dismissed the writ petitions and directed the petitioners to restore the pension to Smt. Siya Devi and Smt. Sakali Devi.

14. He contended that the said order dated 22.01.2015 passed by the Division Bench of this Court has not been challenged by the petitioners and the respondent Smt. Siya Devi and Smt. Sakali Devi are regularly being paid their family pension.

15. Be that as it may, as far as the case in hand is concerned, we find no error in the order passed by the Tribunal, as the Tribunal has not decided the claim of the respondent in any manner. The Tribunal while disposing of the application filed by the respondent has simply observed that fate of the respondent shall be governed by the writ pending before the High Court and the East Central Railway shall abide by the same in granting similar benefits to this widow.



16. In case, the petitioners are aggrieved by the order of the High Court, they are at liberty to challenge the same before the Supreme Court. However, the order passed by the Tribunal whereby it has not decided any right of the respondent itself cannot be faulted with on any ground.

17. In that view of the matter, we find no merit in this application. The application is dismissed, accordingly. However, there shall be no order as to costs.

**(Ashwani Kumar Singh, J.)**

**(Partha Sarthy, J.)**

Sanjeet/-

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