

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19125 of 2019**

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Tribhuan Paswan Aged about 70 years, Male Son of Late Ayodhya Paswan,  
Ex-RPF Constable, R/o Village- Mansurpur, P.O.+P.S.-Sarai and the District-  
Vaishali.

... .. Petitioner/s

Versus

1. The Union of India through the Chief Security Commissioner, Railway Protection Force, Eastern Railway, 14 Strand Road, Kolkatta (W.B.).
2. The Divisional Security Commissioner, Eastern Railway, Mughal Sarai, U.P.
3. The Divisional Railway Manager, Eastern Railway, Mughal Sarai, U.P.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. S.S.P. Yadav, Advocate  
For the Respondent/s : Mr. D.K. Sinha, Sr. Advocate

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

8      04-02-2021                      Heard Mr. S.S.P. Yadav, learned counsel for the  
  
petitioner and Mr. D.K. Sinha, learned senior counsel appearing  
  
for the respondent -Railways.

2. The present writ application has been filed  
challenging the show-cause dated 09.02.2017 filed by the  
respondents in M.J.C. No. 4116 of 2016 alleging that the claims  
of retiral dues of the petitioner have been ignored.

3. During the pendency of this writ application the  
petitioner has filed an Interlocutory Application being I.A. No.  
01 of 2021 for amendment of the prayer portion inasmuch as to  
challenge the removal order dated 17.08.1993 by which the  
petitioner was removed from the post of R.P.F. Constable.

4. Let the I.A. No. 01 of 2021 be allowed and the  
same may be treated as part of the writ application.

5. Learned counsel for the petitioner submits that  
removal of the petitioner from the post of Constable, R.P.F was



bad in law inasmuch as the petitioner was not given adequate opportunity in the departmental proceeding to defend himself and the disciplinary authority has also not considered the documents relating to treatment of the petitioner produced during the course of departmental proceeding. Learned counsel next submits that petitioner is entitled to be considered as a retired employee and accordingly the respondents may be directed to pay the entire retirement benefits to the petitioner treating him as superannuated.

6. On the other hand, learned senior counsel appearing for the respondent - Railways submits that this is the 3<sup>rd</sup> writ application filed by the petitioner inasmuch as earlier the petitioner had approached this Court in writ application being C.W.J.C. No. 2921 of 1994 challenging the removal of the petitioner from the muster-roll dated 17.08.1993. The said writ petition was disposed of by this Court vide order dated 18.05.1995 directing the Chief Security Commissioner to dispose of the representation of the petitioner by a reasoned order. Learned senior counsel next submits that again the petitioner preferred another writ petition being C.W.J.C. No. 10323 of 1995 challenging the order of removal from service after enquiry by the Divisional Security Commissioner passed



on 17.08.1993 and further order passed in appeal dated 07.12.1996 and by order dated 05.02.1997 the writ application was disposed of by this Court after coming to the finding that **“during the hearing of the case the petitioner has reached the age of superannuation and in view of the observation made by this Court on the merit of the case, counsel for the petitioner submitted that the petitioner would be satisfied if a direction may be issued to the respondents to determine his post -removal dues such as GPF contributions, group insurance etc. and make payment to the petitioner.”**

Accordingly, the writ application was disposed of by this Court with a direction to the concerned respondents to issue appropriate order in respect to petitioner's entitlement to receive post removal dues in accordance with the rules and make payment as early as possible. Learned counsel next submits that petitioner subsequently filed a contempt application before this Court bearing M.J.C. No. 4116 of 2016 which was disposed of by this Court on 07.09.2018 in view of the statement made by the opposite parties in paragraph no. 12 of the show-cause. The said paragraph no. 12 of the show cause has been impugned by the petitioner in the present writ application at Annexure – “1”. Learned counsel next submits that post removal benefits of the



petitioner has already been paid as would be evident from paragraph no. 12 of the show- cause (Annexure – “1” to this writ application). Learned senior counsel further submits that petitioner has filed frivolous writ petition after lapse of about 24 years after the earlier two writ petitions filed by the petitioner were dismissed.

7. Having heard learned counsel for the parties and after going through the earlier orders passed by this Court in the writ petitions filed by the petitioner, it appears that petitioner had challenged his removal order as well as appellate order before this Court and after due consideration the writ application was disposed of by this Court and now after lapse of about 24 years the petitioner has again raised similar grievance, which in my considered opinion is not permissible and is barred by constructive *res judicata*.

8. Accordingly, this writ application is dismissed.

**(Anil Kumar Sinha, J)**

praful/-

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