

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4593 of 2015

1. The Union of India through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi
2. The Divisional Railway Manager, East Central Railway, Samastipur
3. The Senior Divisional Engineer I , East Central Railway, Samastipur
4. The Senior Divisional Personnel Officer, East Central Railway, Samastipur
5. The Senior Divisional Finance Manager, East Central Railway, Samastipur
6. The Assistant Divisional Engineer II , East Central Railway, Darbhanga
7. The Senior Section Engineer, P - Way, Jhanjharpur, Distt. - Madhubani

... .. Petitioner/s

Versus

Dukhni Devi, W/o of late Jugeshwar Mandal, Presently Sahokha, P.O. Laukaha, P.S. Laukaha, Distt. Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Kripa Nand Jha, Advocate
For Intervenor	:	Mr. Sanjeev Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-07-2022

Heard learned counsels for the respective parties.

In the instant petition, petitioner-department has assailed the order of the Tribunal dated 27.08.2017 passed in OA No. 02 of 2012 passed by the Central Administrative Tribunal, Patna Bench, Patna. The deceased Jugeshwar Mandal whose services have been terminated on 29.08.2011 had filed application No. 02 of 2012 before the Tribunal. The alleged allegation leveled against the deceased Jugeshwar Mandal is that there was impersonation of his



brother certificate and it was subject matter of inquiry and it was concluded in imposition of penalty of removal from service. Extract of the Tribunal order reads as under:-

“18. In the light of the foregoing discussion, we quashed the order of the removal dated 29.08.2011 of the applicant with a direction to the disciplinary authority to serve the charge sheet and enquiry/verification report to the applicant. Thereafter, on receipt of representation of the applicant, fresh enquiry be conducted as per the D.A. Rules and then disciplinary authority shall pass order by giving the applicant due opportunity as per rules.

19. Since the age of superannuation of the applicant is already over, no order for his re-instatement is being made. However, the issue of treatment of period from the date of his removal till the date of his retirement shall be decided by the competent authority once the order is passed as per the direction in this O.A.”

During the pendency of the O.A No. 02 of 2012 elder brother of deceased employee Jugeshwar Mandal died, thus, wife of the deceased employee has been brought on record.

In the light of the these facts and circumstances, the petitioner counsel is not in a position to address the argument despite providing opportunity. Therefore, matter is required to be decided with the available records.



Undisputed facts are that there were alleged allegations relating to impersonation among brothers Jugeshwar Mandal and Jago Mandal, and it was a subject matter of inquiry and concluded in imposition of penalty of removal from service and it was a subject matter of litigation before the tribunal. During the pendency of the present petition respondent-deceased employee died and legal heirs have been brought on record.

Perusal of the dates and events, it is evident that removal of petitioner from services is 29.08.2011 and it was set aside and the matter was remanded to the disciplinary authority whereas the order of the Tribunal dated 27.08.2013 was stayed on 24.01.2017. Charge was framed in the year 2012 even the directions of the Tribunal cannot be given effect as it is impracticable for the reasons that deceased employee has died and proceedings stands abated.

In the light of these facts and circumstances, the petitioners have not made out a case. Accordingly, the petition stands dismissed. The concerned petitioner is hereby directed to settle all dues of the deceased employee to the legal heirs-respondent. Such exercise shall be completed within a period of three months from the date of receipt of this order failing which the respondent is entitled to interest on all arrears amount @ 12% per annum in the light of the Apex Court decision in the case of **Vijay L. Mehrotra**



Vs. State of Uttar Pradesh and others reported in **(2001) 9 SCC 687.**

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

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CAV DATE	
Uploading Date	
Transmission Date	

