

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6529 of 2018

1. The Union Of India and Ors
2. The General Manager, East Central Railway, H.Q.'s Office, Digha, Hajipur.
3. The Divisional Railway Manager, East Central Railway, Danapur.

... .. Petitioner/s

Versus

Z. U. Ahmad S/o Late Qamruddin Ahmad, R/o Flat No. 203 Ahad Apartment,
Naugharwa, Sultanganj, P.O. Mahendru, P.S.- Sultanganj, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar Sinha, Sr. Advocate Mr. Radhika Raman, CGC
For the Respondent/s	:	Mr. Sanjay Kumar, 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 parties.

2. The present petition is presented by the Railway department. Respondent Z.U. Ahmad was employee with the Railways while he was working as Presenting Officer at Railway Claims Tribunal at Patna. He was dismissed from service while invoking Rule 14 (i) of Railway Servants' (Discipline and Appeal) Rules, 1968 which is based on the conviction by a Special Judge, CBI in criminal case. His conviction was subject matter of



litigation before this Court and it was set aside thus respondent demanded monetary benefits which was not extended to the respondent by the petitioner - Railway department, therefore, he was compelled to file O.A. No. 478 of 2009 and it was disposed of while directing the Railway authorities to consider his claim of retiral benefits as well as payment of interest as per the applicable law and rules. Such order was not given effect, therefore, he was compelled to file contempt petition No. 43 of 2012. During pendency of the contempt petition it is learnt that department have settled the amount of Rs. 4,95,447/- from the date of dismissal up to the date of payment. Whereas actual payment was made on 27.04.2016, therefore, interest portion has not been calculated from 07.09.2011 to 27.04.2016. Thus, respondent preferred O.A. No. 050/00680 of 2015 along with MA/050/00058 of 2017 and it was decided on 30.03.2017. Petitioner – department filed R.A. 050/0049 of 2017 arising out of OA/050/00680 of 2015 which was dismissed on 06.10.2017. Hence, the petitioner – Railway department has presented this petition.

3. Undisputed facts are that respondent was dismissed from service on account of conviction in a criminal case and conviction order was set aside by this Court. In the result, respondent is entitled to monetary benefits along with interest in



terms of the Government order/relevant Rules. The petitioners have calculated interest up to 06.09.2011 without there being any reason. On the other hand payment was made only on 27.04.2016. In terms of the order of the Tribunal passed in O.A. No. 478 of 2009 read with CCPA No. 43 of 2012 and the fact that payment has been made to the respondent on 27.04.2016, the respondent is entitled to interest during the intervening period from 07.09.2011 to 27.04.2016.

4. *Prima facie* the petitioner – department have not made out a case so as to deny interest to the respondent during the intervening period from 06.09.2011 to 27.04.2016 for the reasons that actual payment was made only on 24.07.2016. There is no reason as to why interest portion has been restricted to 06.09.2011 when the actual payment have been made on 27.04.2016.

5. At this juncture, it is to be noted that the present appeal has been drafted ignoring the cause title of the O.A. decided by the Central Administrative Tribunal, Patna Bench, Patna. In the cause title respondents have been shown as Postal department and not Railway department. In all fairness concerned Railway authorities should have made necessary application to rectify the cause title before the Central Administrative Tribunal, Patna Bench, Patna. This is how the petitioner department is filing



appeal against Central Administrative Tribunal's order and which is deprecated. From here onwards the concerned authority has to examine every issue before presenting writ petition or L.P.A. In fact, petitioner department should have been model litigant in presenting litigations before various Courts.

6. Accordingly, present petition stands dismissed.

7. The petitioner are hereby directed to calculate arrears of interest for the intervening period from 07.09.2011 to 27.04.2016 and pay to the respondent within a period of six weeks from today, failing which respondent is entitled to litigation cost and it is quantified at Rs. 10,000/- (Rupees Ten Thousand).

8. Copy of this order shall be given to the petitioners' counsel *Mr. Praveen Kumar Sinha* for compliance.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	08.07.2022
Transmission Date	

