

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14535 of 2021

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Ganesh Chandra Mishra S/o Late Shri Chandra Mishra, r/o 249, Defence Colony, P.O-Lohianagar, P.S.-Kankarbagh, District-Patna.

... .. Petitioner/s

Versus

1. Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. Chairman, Railway Board, Rail Bhawan, New Delhi.
3. General Manager, Eastern Railway, 17, Netajee Subhash Road, Kolkata.
4. Chief Administrative Officer, Construction, Eastern Railway, 17, Netajee Subhash Road, Kolkata.
5. Joint Secretary (E), Railway Board, Rail Bhawan, New Delhi.
6. Deputy Secretary (E), Railway Board, Rail Bhawan, New Delhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Baidya Nath Thakur
For the Respondent/s : Mr. Praveen Kumar Sinha, Adv.
Mr. R.K. Sharma, Adv. CGC

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

Date : 11-07-2022

The writ petition has been filed for:

“(i) for quashing of the order dated 18.08.2016 passed by the Central Administrative Tribunal, Patna Bench, Patna (henceforth for short ‘the Tribunal’) in O.A. No.600/2011 & MA No.263/2011 whereby the prayers of the petitioner, superannuated from the post of who DY.CE(C), Eastern Railway, to set aside the



Presidential orders dated 08.03.1996 and 10.03.1999, respectively withholding 25% and 50% of his pension on permanent basis were rejected on the ground of delay;

(ii) for quashing the order dated 08.03.1996 whereby the Deputy Secretary (E)II/Railway Board, New Delhi on the order of Hon'ble the President of India awarded punishment of 25% cut in the pension of the petitioner on permanent basis;

(iii) for quashing the order dated 10.03.1999 whereby the Deputy Secretary (E)II/Railway Board, New Delhi on the order of Hon'ble the President of India imposed a penalty of withholding of 50% pension on the petitioner on permanent basis.

2. The matrix of the fact leading to the present case are enumerated herein below:

3. Vide orders dated 08.03.1996 and 10.03.1999, Ganesh Chandra Mishra an employee with the Indian Railways was imposed with the punishment of:

(i) 25% cut in pension on permanent basis;



(ii) *withholding of 50% cut in monthly pension admissible to the applicant on permanent basis.*

4. Twelve years later, the said punishment/penalty order was challenged in O.A. No.600/2011 read with MA No.263/2011. 'The Tribunal' vide an order dated 18.08.2016 dismissed the OA application holding as follows:

"4. Before delving into the merit of this case, the maintainability of the present O.A. needs to be answered as a preliminary issue. If the applicant succeeds in crossing the preliminary, then his case can be set on the adjudication table. Rule 10 of Central Administrative Tribunal Procedure Rule reads like this:

"10. Plural remedies- An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another."

5. In the present O.A, the applicant challenges one order passed in 1996 and another order passed in 1999 where there was specific order for cut in pension from different dates. Both the orders stemming from two different cause of action and as such, both the cause of action cannot be adjudicated under one umbrella within the fabric of rule 10 of CAT Procedure Rule, 1987 and on this ground, the O.A. is liable to be rejected as not maintainable.

6. Besides legal maintainability of the O.A., there is another impediment in crossing the hurdle of Section 21 of A.T. Act 1985 for approaching the Tribunal after



such inordinate delay. In ordinary parlance, Service Tribunal take a lenient view in condoning delay in live claim or in cases where the applicant was prevented or misguided from taking shelter in judicial forum. The present applicant is a responsible officer of Indian Railway and retired as a Deputy Chief Engineer in November, 1992. That apart, the applicant is well conversant with the judicial forum as he had earlier approached different Benches of this Tribunal so also Hon'ble High Courts of Patna, Calcutta, Guwahati and Apex Court and is not a raw man or a novice in pursuing his personal claim. After 25% cut in pension in 1996 (Annexure A/2), the applicant might have thought of not entering into further litigation. But the same reasoning is not applicable when there was an order of 50% cut in pension in March, 1999. Since the applicant was financially affected in a major way in 1999 itself, it cannot be said that he was not aware of the consequences or about his future action. Since the right not established within a period of limitation, at this fag end, it cannot be entertained being a stale claim **{(2010) 1 SCC (L&S) 735 Union of India vs Surjit Kaur relied on}**. There is absolutely no rhyme or reason or plausible explanation offered by the applicant what he was doing at least from 1999 to 2010 and suddenly woke up from deep slumber only in 2011. In the case of C. Jaxcob v. Director of Geology & Mining & Anr, AIR 2009 SC 264, Their Lordships of Hon'ble Supreme Court had sounded a word of caution to Administrative Tribunals in desisting from giving direction for consideration of such stale claims. It may not be lost sight of the fact that the period of limitation of one year from the date on which such final order has been made cannot be stretched to a decade to accommodate a case hopelessly barred by



limitation in view of the statutory bar enacted under Section 21 of the A.T. Act, 1985

7. Since the claim of the applicant has become a stale claim, we refrain from adjudicating the same as it would give wrong signal to the society so also it will make a mockery of the provision of limitation enacted under the statute. Hence ordered.

8. M.A.263 of 2011 being hopelessly barred by limitation is rejected and the inordinate delay is not condoned and accordingly, the O.A. is also not admitted and is dismissed. No costs.”

5. After five years of the passing of the said order dated 18.08.2016, the present writ petition was filed in the year 2021.

6. Heard learned counsel for the parties. From the records, it is clear that the original orders were passed in 1996/1999. The O.A. application was preferred before ‘the Tribunal’ in 2011. The same was dismissed in 2016 and after five years the present petition was filed. There is some more to be explained in the present petition.

7. When the matter was taken up, this Court found that the petition has been put on affidavit by one Rajesh Chandra Mishra who claims himself to be the son of the Ganesh Chandra Mishra. Upon close scrutiny, it was further found that even the ‘Vakalatnama’ was signed by the said Rajesh Chandra Mishra and not by Ganesh Chandra Mishra (who was affected by order). There is no statement in the entire writ petition and/or any document



which could throw any light on the reason why the said Rajesh Chandra Mishra has chosen to challenge the order dated 18.08.2016 in 2021 on behalf of the said Ganesh Chandra Mishra without disclosing the said facts to this Court.

8. This clearly shows that the writ petition has been filed by the said Rajesh Chandra Mishra on his own despite having no locus standi to assail the order dated 18.08.2016 passed by 'the Tribunal' in O.A. No.600/2011.

9. The writ petition is wholly misconceived, ill-advised and is accordingly dismissed with a cost of Rs.5000/-(Rupees Five Thousand Only) to be deposited in the Bihar State Legal Services Authority within a period of one month.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2022
Transmission Date	NA

