

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25 of 2020

1. The Union of India through the General Manager, East Central Railway, Hazipur, P.O.- DigghiKalan, P.S. Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
2. The General Manager, (Personnel), East Central Railway, Hazipur, P.O.- Digghi Kalan, P.S. Hazipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
3. The Divisional Railway, Manager, East Central Railway Dhanbad (Jharkhand)- 826001.
4. The Senior Divisional Engineer (Co-ordination), East Central Railway, Dhanbad (Jharkhand)- 826001.
5. The Senior Divisional Personnel Officer, East Central Railway, Dhanbad (Jharkhand)- 826001.
6. The Senior Divisional Financial Manager, East Central Railway, Dhanbad (Jharkhand)- 826001.

... .. Petitioner/s

Versus

Urmila Devi, Wife of Late Krishna Mohan Singh, subsequently modified by Order dated 16.5.2019 passed in M.A. No. 2010 of 2019 as Late Krishna Murari Singh contained in Annexure - 1 series, Resident of Mohalla-AzadNagar, Road No. 2, Near Chandmari Road, Kankarbagh, P.O.- Kankarbagh, P.S.- Kankarbagh, Town and District- Patna Pin 800020 (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bijoy Kumar Sinha
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 28-07-2022

Heard learned counsels for the parties.

2. On 06.07.2022, following order was passed.

“In the instant petition, the learned counsel for the petitioner was repeatedly asked as to what was the subject matter before the Tribunal. He was keep on harping that the



respondents had challenged the order of compulsory retirement dated 30.1.2012 whereas prayer in the original application before the Tribunal reads as under:-

“To declare the impugned recovery as shown in Annexure-A/1 dated 05/19.09.2017 against the heading over-payment of Salary, Damage Rents and R.E.L.H.S. as null and void, hence the same be quashed and set aside accordingly.

To direct/command the respondents to refund the deducted amount of Rs. 7,54,599/- (plus) Rs. 1,29,067/- (plus) Rs. 1,08,530/- (plus) Rs. 19,970/- equals to RS. 10,12,166/- recovered against over-payment of salary for the period from 01.03.2010 to 31.01.2012, damage rent for the period from 01.10.2012 to 20.12.2014 and 01.03.2010 to 31.01.2012 and R.E.L.H.S. respectively as shown in the Annexure-A/1 without any further delay.

To direct the respondents to pay compound interest on the aforesaid amounts till the date of its actual payment together with interest on the G.P.F. Amount for the period from 2010 to 2016 and all consequential benefit in favour of the applicant for which the applicant is entitled too.

Any other relief or reliefs including the cost of Rs. 5,00,000/- be awarded in favour of the applicant and against the respondents which may be recovered from the salary/pensionary benefits from the erring Officials/Officers”.

In other words perusal of the records it is evident that there is no challenge to the order of the compulsory retirement punishment dated 30.1.2012, which reveals that the counsel for the petitioners has not read the paper. On the other hand, the question for consideration in the present petition is whether the respondent is entitled to refund of certain excess amount stated to have been paid and further interest for the period from 2010 to 2016 on the belated settlement of retiral benefits.



In the light of these facts and circumstances, the petitioners are hereby directed to pay a sum of Rs. 10,000/- in the High Court Legal Services Authority for wasting Court's time.

Re-list this matter on 27.7.2022.”

3. Today learned counsel for the petitioners submitted that the deceased Krishna Mohan Singh, husband of respondent – Urmila Devi is not entitled to excess payment made on account of date of birth issue read with Damage Rents and R.E.L.H.S. In this regard, the respondent – Urmila Devi invoked remedy before the Central Administrative Tribunal (for short ‘Tribunal’). Tribunal allowed the respondent's application. Thus the department filed the present writ petition.

4. Learned counsel for the petitioners submitted that deceased Krishna Mohan Singh was appointed on 22.03.1980 while giving date of birth as 13.02.1952. On a complaint received by the petitioner – Department in the year 2011, correctness of date of birth was examined in departmental inquiry and it was held that deceased Krishna Mohan Singh's date of birth is 13.02.1950 and not 13.02.1952. Thus he was retired compulsorily on 30.01.2012. In the intervening period, deceased Krishna Mohan Singh has been extended over payment of salary, recovery of Damage Rents and R.E.L.H.S. which is sought to be recovered. It is also submitted that deceased Krishna Mohan Singh has not questioned the validity of the compulsorily retirement order dated 30.01.2012. In the light of these



facts and circumstances, the petitioner department is entitled to recover excess payment made to the deceased Krishna Mohan Singh with reference to the aforesaid issues.

5. Heard learned counsel for the respective parties.

6. Perusal of the Tribunal's order, we find no infirmity in respect of subject matter and relief sought by the respondent. Moreover Apex Court recently in the case of ***Thomas Daniel vs. State of Kerala and Ors., 2022 LiveLaw (SC) 438*** held that excess payment made to the employee cannot be recovered after lapse of number of years. In the present case the petitioner had a cause of action to recover excess payment in the year 2010 and year 2012 whereas order of recovery has been ordered in the year 2017. In the light of these facts, petitioner department have not made out a case so as to interfere with the Tribunal's dated 23.04.2019 passed in OA/050/00615/17.

7. Accordingly, petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2022
Transmission Date	

