

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3948 of 2018
In
Civil Writ Jurisdiction Case No.1278 of 2017

1. Vijay Shankar Son of Late Murat.
2. Rama Shankar Son of Late Murat.
Both Ex.- Special Grade Driver (Steam), Jhajha Loco Shed, Under East Central Railway, Danapur Division, Resident of Village- Chak Haibullah, Kuchai, District- Mau (U.P).

... .. Petitioners.

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, District-Vaishali (Bihar).
2. The General Manager, Eastern Railway, Kolkata.
3. The Divisional Railway Manager, East Central Railway, Danapur (Bihar).
4. The Senior Divisional Personnel Officer, East Central Railway, Danapur (Bihar).

... .. Opposite Parties.

Appearance :

For the Petitioners	:	Mr. M.P. Dixit, Advocate. Mr. S.K. Dixit, Advocate. Mr. Sanjay Kumar Chaubey, Advocate. Mr. Swastika, Advocate.
For the Opposite Parties. :		Mr. Raj Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

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

2 06-12-2023 The present M.J.C. is filed for recalling the order dated 04.04.2017 passed in C.W.J.C. No.1278 of 2017.

2. It is necessary to reproduce the order dated 04.04.2017 passed in C.W.J.C. No.1278 of 2017. It reads as under:

“The legal question which arises is whether it is open from generation to generation to decide as to when demand parity and equality on the basis of a judgment which



was rendered by the Hon'ble Supreme Court way back in the year 1993 and whether it is open for the descendants of an employee to challenge an order which has already been passed way back on 12.12.2001 rejecting such claim and then wake up after more than a decade to challenge the same before the Tribunal on the ground that it is a continuing kind of right.

This application will be heard keeping the above legal question in mind.

Issue notice to respondent nos.1 to 4 by registered cover with A/D as well as ordinary process, for which requisites etc. must be filed within two weeks, failing which the application shall stand rejected without further reference to a Bench."

3. The present M.J.C. is filed on 27.09.2018. There is delay of about more than one year. Rules of the High Court at Patna do not stipulate any time limit insofar as filing of M.J.C./Restoration petition. Further sufficient cause has not been shown in the present M.J.C. except stating in paragraph-4 that they were waiting for listing of the case. Paragraph-4 reads as under:

"4. That the Petitioners were not aware about said part of the Order and they genuinely waiting for listing of the case under the heading 'Hearing' when other cases have been listed recently but the case of the Petitioners did not find place. It is submitted that when the Petitioners gone through the case status at the site of Hon'ble High Court Patna, then they came to know about the aforesaid direction regarding filing of requisite."



4. The M.J.C. restoration is warranted for dismissal on the ground of laches. However, due to deficiency of service on behalf of the petitioners' counsel, petitioners shall not be penalized. Therefore, the present M.J.C. for restoration stands allowed while recalling the order dated 04.04.2017 passed in C.W.J.C. No.1278 of 2017 subject to payment of cost of Rs.2000/-. Cost shall be remitted in the High Court Legal Services Authority, Patna High Court, within a period of two weeks.

5. Registry is hereby directed to list C.W.J.C. No.1278 of 2017 before the concerned Roster Bench.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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