

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.471 of 2022

Shiv Shankar Singh

... .. Appellant

Versus

The Union of India, through the General Manager and Ors.

... .. Respondents

Appearance :

For the Appellant/s : Mr.Krishna Mohan Murari, Advocate

For the Respondent/s : Mr.Indrajeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-01-2023 Mr. Indrajeet Kumar, learned assisting counsel of Mr. T. N. Thakur, learned Advocate for the Railways is present.

In the nature of the reliefs prayed in this appeal, this Court deems it just and proper to dispose of the appeal on its own merit.

Earlier after hearing learned counsel for the appellant and the respondents, this Court passed the order dated 09.11.2022 which reads as under:-

“Heard counsel for the appellant as also the respondents.

The appellant has challenged the order dated 04.07.2022 passed in Res/PNBE/02/2021 by the learned Railway Claims Tribunal, Patna Bench, Patna by which restoration application for restoring O.A. No. 179 of 2010 was rejected on the ground that the same was dismissed for default on 31.12.2015 and the restoration petition has been filed in 2021 after inordinate delay.



Learned counsel for the appellant has taken this Court to Para-6 of the petition which reads as follows:

6.The learned Tribunal has failed to appreciate that prior to dismissal of this case for non-prosecution, the matter was taken up in the year 2013. No notice was served upon the applicant/appellant nor was served upon the applicant/appellant as required under Order 13(4) of the Railway Claims Tribunal(Procedure) Rules, 1989, if it is found that the learned counsel appearing on behalf of the applicant/appellant is not pursuing the matter properly and nor a free copy of order dated 31.12.2015, as required in the terms of rule 34 of the Railway Claims Tribunal (Procedure) Rules, 1989 was sent to the applicant/appellant and as such, he could not approach the learned Tribunal for file the application for restoration of original claim application till 5 years.

Learned counsel for the respondents submits that he may be granted six weeks time to file comprehensive reply to each and every paragraphs specially para-6.

As prayed for, put up this case after six weeks.”

In the aforesaid view of the matter, to this Court it appears that to enable the appellant to get substantial justice, restoration of O.A. No. 179/2010 is required.

Accordingly, this appeal is allowed.

O.A. No. 179/2010 which was dismissed for default on 31.12.2015 by the learned Railway Claims Tribunal, Patna Bench, Patna is hereby restored to its original file. The Tribunal is directed to fix a date and provide proper information of the



same to both the sides whereafter the case shall proceed. Since the case is of the year 2010, it is expected that the Tribunal shall dispose of the same within a period of six months from the date of communication of this order.

This appeal stands disposed of.

(Rajeev Ranjan Prasad, J)

tusharika/-

U			
---	--	--	--

