# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.23967 of 2019**

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1. The Union of India through the Secretary, Railway Board, Ministry of Railway, Government of India, New Delhi.
2. The General Manager, East Central Railway Zone, Hajipur.
3. The Chief Commercial Manager, East Central Railway, Hajipur.
4. The Financial Advisor-cum-Chief Accounts Officer (WST) East Central Railway, Patna 800001.
5. The Chief Passenger Transportation Manager, East Central Railway, Hajipur.
6. The Divisional Railway Manager, East Central Railway, Samastipur Division, Samastipur.
7. The Senior Divisional Commercial Manager, Samastipur Division, Samastipur.
8. The Senior Divisional Financial Manager, East Central Railway, Samastipur.
9. The Senior Divisional Personnel Officer, Samastipur Division, Samastipur.

... ... Petitioner/s

Versus

Nawal Mohan Jha Son of Late Mahavir Jha Resident of Village Magardah, Ward No.15, P.S.- Samastipur (Town), District- Samastipur.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. R. K. Sharma, CGC<br>Mr. A. K. Pandey, Advocate |
| For the Respondent/s | : | Mr. Munna Pd Dixit (M.P. Dixit), Advocate<br>Mr. S.K. Dixit, Advocate<br>Mr. S.K. Chaubey, Advocate<br>Ms. Swastika, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**
**and**
**HONOURABLE MR. JUSTICE JITENDRA KUMAR**

ORAL ORDER

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

4 05-07-2023 The present writ petition is filed for assailing the order dated 13.10.2017 passed in O.A. No. 050/00778/2015. Respondent – Nawal Mohan Jha was an employee of Railway.

After attaining age of superannuation and retired from service, the concerned respondents have withheld certain amount with reference to DCRG and Leave Encashment etc. The reasons for withholding DCRG and Leave Encashment from the date of his retirement i.e., 30.06.2013 is that the respondent – Nawal Mohan Jha is stated to have committed certain irregularities which resulted in financial loss to the Railway department. In the guise of recovery of alleged loss, the petitioner - Railway department have proceeded to adjust and withheld DCRG and Leave Encashment. It is undisputed that there is no determination of loss cause to the Railway department in a departmental inquiry so as to withheld DCRG and Leave Encashment. Any loss cause to the employer by an employee is required to be determined in a domestic enquiry so as to impose penalty including recovery of loss if any. Undisputedly, there was no domestic enquiry initiated and concluded against the respondent – Nawal Mohan Jha as on the date of his retirement on 30.06.2013 or any departmental inquiry was pending consideration so as to withheld DCRG and Leave Encashment. In the absence of determination of alleged loss stated to have been cause by the respondent, the Railway Authorities – petitioner are not entitled to withheld DCRG and Leave

Encashment.

2. In view of these facts and circumstances, there is no infirmity in the order dated 13.10.2017 passed in O.A. No. 0050/00778/2015. Accordingly, the present writ petition stands dismissed as no merits.

**(P. B. Bajanthri, J)**

**(Jitendra Kumar, J)**

shoaib/-

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