

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13387 of 2016

1. The Union of India through the General Manager, East Central Railway, Hazipur-844101.
2. The Divisional Railway Manager East Central Railway, Danapur
3. Sr. DEN Co-Ordination, East Central Railway, Danapur
4. Sr. D.P.O., East Central Railway, Danapur
5. Sr. D.A.O., East Central Railway, Danapur
6. Assistant Engineer, East Central Railway, Mokama
7. Inspector of Works, East Central Railway, Mokama
8. C.M.S., East Central Railway, Danapur

... .. Petitioner/s

Versus

Tara Devi wife of Bishundeo Resident of Village -Madan Gachhi, PO.
Mokama, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. M.P. Dikshit, Advocate Mr. S.K. Dixit, Advocate Mr. S.K. Choubey, Advocate Mrs. Swastika, Advocate Mr. Milind Raj Dixit, Advocate Mr. Shailendra Kumar, Advocate
For the Respondent/s	:	Mr. Mohit Agrawal, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-04-2024

Heard learned counsels for the respective parties.

2. The Petitioners-Union of India-Department of Railways have assailed the order of the Central Administrative Tribunal, Patna Bench, Patna (for short 'CAT') dated 24.03.2015 passed in O.A. No. 507 of 2012. Respondent-Tara Devi is the wife of the deceased-Bishundeo. Deceased employee services were



engaged by the Petitioners-Union of India-Department of Railways. There was a dispute as to whether respondent is entitled to retiral benefits or not and it was adjudicated by the CAT in O.A. No. 507 of 2012. In paras 4 and 5, CAT has passed the following order:-

"4. I have heard both the sides and perused the record. It is noted that the respondents have rejected the claim of family pension of the applicant on the ground that her husband was a CPC Khalasi. From the documents enclosed by the applicant in the OA, it is revealed that the husband of the applicant was shown as Khalasi and the finding of the respondents has no basis as they could not produce any documents in support of their contention, nor any reasons have been assigned while arriving at the conclusion by the respondents vide their impugned order dated 24.02.2012. During the course of hearing, in support of his contention the counsel for the applicant has referred medical certificate issued by the Medical Department of Eastern Railway [Anexure-A/1] as well as communication dated 22.09.1990 [Annexure-A/2], letter dated 27.10.1990 [Annexure-A/3], wherein the husband of the applicant has been referred as 'Khalasi'. It is further noted that the same issue as well as submission was made before this Tribunal in OA No.393 of 2006 and this Tribunal after going through the record had directed the respondents to verify the exact status of the applicant's husband and then decide and pass the order. However, para 4 of the impugned order dated 24.02.2012 passed in pursuance of the order dated 25.11.2011 reads as under :-

"4. The status of Bishundeo was again examined and he was CPC Khalasi not



regularized in service, hence not entitled for pension."

No reasons for arriving at such conclusion have been mentioned in the said order. As this is a question of fact, the course of hearing, vide order dated 17.07.2014 were directed to file relevant documents to substantiate their contention that the applicant was a CPC Khalasi. However, thereafter enough opportunities were given to the respondents and lastly on 26.02.2015, the learned counsel for the respondents brought one file regarding appointment of son of the applicant, who was appointed in the meantime, stating that they do not have any document to show that the ex-employee was a CPC Khalasi and they are only relying upon speaking order. As per respondents version since the son of the applicant has been appointed as CPC Khalasi, it is respondents, during the presumed that husband of the applicant was also a CPC Khalasi.

5. In view of above, in my opinion the contention of the respondents that the husband of the applicant was a 'CPC Khalasi' cannot be accepted as from perusal of the annexures at A/1, A/2 & A/3 to the OA, it transpires that the husband of the applicant was shown as 'Khalasi'. Accordingly, the OA is allowed. The impugned order dated 24.02.2012 [Annexure-A/10] is hereby quashed and set aside. The respondents are further directed to release the family pension and other retiral benefits like leave salary, DCRG and unpaid salary of her husband to the applicant within a period of four months from the date of receipt of this order along with interest @ 8% per annum from the date of acceptance of the death of the husband of the applicant i.e. 18.01.2006 from which date the respondents have treated the applicant's husband as dead under Section 107 of Indian Evidence Act."



3. Taking note of the aforementioned observations and orders of the Tribunal time and again we have requested the Petitioners-Union of India-Department of Railways to apprise that post of Khalasi was governed by set of Rules of Recruitment and other related material so as to interfere with the CAT order. Thereafter, they have filed two supplementary counter affidavits without producing relevant material insofar as post of Khalasi. Even to this day, they are not in a position to apprise this Court that post of Khalasi is governed by certain set of Rules or Executive Order.

4. Taking note of these factual aspects, the Petitioners-Union of India-Department of Railways have not made out a case so as to interfere with the order dated 24.03.2015 passed in O.A. No. 507 of 2012. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

