

WP.CT 142 of 2024

**Union of India & Ors.
Vs
Juli Saha**

Mr. Kalyan Chakraborty
Mr. Pradyat Saha

.....For the Appellants/UoI.

Mr. Ujjal Ray

Mr. Arpa Chakraborty

.....For the Respondent.

The present writ petition has been preferred by the Union of India and its functionaries challenging an order dated 18th May, 2023 passed in the original application (in short, OA), being OA 1563 of 2021 and an order dated 19th October, 2023 passed in a review application being RA 16 of 2023.

Record reveals that the original applicant/respondent herein, namely, Juli Saha (in short, Juli) preferred the OA challenging an order dated 9th September, 2020. By the said order the competent authority sanctioned 2/3rd of Gratuity/DCRG as compassionate allowance but no family pension was sanctioned to Juli as her husband, namely, Pintu Kumar Saha (in short, Pintu) did not complete 10 years (in other words 9 years 9 months) of qualifying service on the date of his removal. The learned Tribunal in the order impugned dated 18th May, 2023 arrived at a finding that Pintu had served for 9 years 9 months and that as per RBE 187/1990 Pintu was entitled to pension and accordingly Juli was entitled to

the consequential benefits. Aggrieved by the impugned order dated 18th May, 2023 the petitioners preferred a review application but the same was dismissed by an order dated 9th October, 2023.

Mr. Chakraborty, learned advocate appearing for the petitioners submits that a disciplinary proceeding was initiated against Pintu by a charge sheet issued *vide* memo dated 18th May, 2003 and a punishment of removal from service was imposed upon Pintu *vide* memo dated 17th May, 2004. The said order was unsuccessfully challenged in a statutory appeal and in a revision. Subsequent thereto, Pintu expired on 2nd June, 2018.

He submits that Pintu joined Railway service on 2nd November, 1987 and was terminated with effect from 17th May, 2024. His entire service period was of 16 years 6 months and 15 days but as he was absent for 2599 days, the said period of unauthorized absence was deducted from Pintu's service tenure and his qualifying service was calculated to be of 9 years 5 months and 1 day. As Pintu did not complete 9 years and 9 months of service, he was not entitled to pension. The documents, as produced, pertaining to the alleged period of absence of 2599 days, be kept on record.

According to Mr. Chakraborty, the impugned order was passed by the learned Tribunal failing to appreciate that a period of unauthorized absence cannot count towards qualifying service. Such argument, as advanced,

was glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Ray, learned advocate appearing for the respondent, however, denies and disputes the contention of the petitioners and submits that pertaining to the alleged period of unauthorized absence of 2599 days, no disciplinary proceeding was initiated against Pintu. Thus, the said period of 2599 days could not have been deducted from the service tenure of Pintu. The only disciplinary proceeding initiated was *vide* memo dated 18th May, 2003 pertaining to an alleged period of absence from 8th October, 2002 to 12th May, 2003. For such unauthorized absence, Pintu was removed from service with effect from 17th May, 2004.

He argues that the alleged period of absence of 2599 days was, in fact, regularised by the petitioners. In the said conspectus, the learned Tribunal, placing reliance upon RBE 187/1990 rightly held that Pintu had rendered 9 years 9 months of service and accordingly directed disbursement of consequential benefits of pension to Pintu's widow. There is thus no infirmity in the order impugned and the same also does not suffer from any jurisdictional error warranting interference of this Court.

Mr. Chakraborty, has not been able to satisfy this Court as to whether any disciplinary proceeding was

initiated against Pintu pertaining to the period of alleged unauthorized absence of 2599 days from the year 1988 till the year 2003. In view thereof, the said period of 2599 days could not have been deducted from Pintu's entire service period of 16 years 06 months and 15 days.

The disciplinary proceeding which was initiated against Pintu was pertaining to a period from 8th October, 2002 till 12th May, 2003. No document has been produced to establish that the alleged period of absence prior to the period pertaining to the charge sheet dated 18th May, 2003 was not regularized by the authorities.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned, warranting interference of this Court.

The writ petition is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)