

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

WPA 1361 of 2022

**Manoranjan Kumar
Versus
Union of India and Ors.**

Mr. Pritam Roy, Adv.
Mr. Deborshi Dhar, Adv.
Ms. Monisha Roy, Adv.
Ms. Sunayana Prasad, Adv.

... for the petitioner

Mr. Subir Kumar Saha
Mr. Momenur Rahaman

... for the State/respondent

Mr. Ajoy Kumar Sinhanian, Adv.

... for the N.F. Railway

Mr. Pritam Roy, learned counsel, is appearing for the petitioner. Mr. Momenur Rahaman, learned counsel, is appearing for the State. Mr. Ajoy Kumar Sinhanian, learned counsel, is appearing for the respondent N.F. Railway.

The petitioner has filed the present application praying for a direction upon the concerned authority to initiate a fresh investigation with regard to the death of Abhimanyu Kumar who died on 8th October, 2014.

This Court by an order dated 7th February, 2023 has called for a report from the investigating officer

as well as Divisional Railway Manager, Alipurduar with regard to running time of Train No.02503, Down Rajdhani Express in between New Alipurduar and New Cooch Behar Station on 8th October, 2014. The investigating officer was also directed to produce the documents to show as to whether he has recorded any statement of any witnesses during investigation of the UD case instituted on the death of Abhimanyu Kumar.

In compliance of the order dated 7th February, 2023, the investigating officer, namely, S.I. Surajit Biswas has submitted the report stating that during investigation of the UD case, he had prepared inquest report in presence of the witnesses but he had not recorded the statement of the said witnesses under Section 161 of the Cr.P.C. but he can produce his personal diary wherein he has recorded the statement of the said witnesses on the said date.

The Senior Divisional Commercial Manager, N.F. Railway, Alipurduar Junction has submitted the report on 20th February, 2023 wherein it is mentioned that as per the information received from the Senior Divisional Operation Manager, Alipurduar, Junction on 08.10.2014, 02503 DN departed from New Alipurduar at 14:52 hours and arrived at New Cooch Behar at 15:10 hours. It is also

mentioned that the said train passed New Baneswar Station at 15:00 hours.

The petitioner is aggrieved with the action of the investigating agency as the investigation agency conducted enquiry with respect of the Unnatural Death case in a casual manner by not recording the statement of the driver of the train and the concerned witnesses of the said case. He has also submitted that the doctor who had conducted the Post Mortem on the dead body of the deceased has also casually submitted the report without giving any detailed report with regard to the injury caused to the deceased. He submitted that investigating agency has not investigated the case properly due to which actual cause of death has not been ascertained. He prays for fresh investigation to ascertain the actual cause of death of the deceased.

Learned counsel for the respondent nos.2 and 3 submitted that on receipt of the information of death of the brother of the petitioner, appropriate Unnatural Death case has been initiated and inquest was made, Post Mortem was conducted and after the Post Mortem it was found that death was due to track accident and as such, the investigating agency has submitted the report before the concerned authority and during the investigation no foul play with regard to the death of the deceased was found.

Heard the learned counsel for the respective parties. Perused the materials on record and the report submitted by the concerned authorities.

Admittedly, the incident occurred on 8th October, 2014. Subsequently, the petitioner was provided with the UD report along with Post Mortem report. The petitioner is not satisfied with the investigation conducted by the investigating authority with regard to the Unnatural Death case. This Court has called for report and in the report the investigating officer has stated that he has conducted inquest in presence of the witnesses available at the place of occurrence. Though he has taken the signature in the inquest report but he has not recorded the statement of witnesses under Section 161 of the Cr.P.C. but he has taken note in his personal diary. After the inquest was held, the body was taken to the nearest hospital wherein the Post Mortem was conducted and in the Post Mortem report it is mentioned that multiple injury was caused including head injury and the cause of death was railway track accident and the nature of injury was ante-mortem in nature. It is also mentioned that the injury caused in the body of the deceased is sufficient to cause death.

Neither the Post Mortem report nor inquest report is under challenge, only the process of the investigation is under challenge.

This Court finds that only the statement of the witnesses who were witnesses to the inquest report was not recorded by the investigating officer during the enquiry of the Unnatural Death case but the same is not fatal. This Court also does not find any further substance on the submission made by the counsel for the petitioner and there is no material on record for which the case can be again referred for fresh investigation. This Court also finds that the incident was occurred in the year 2014 but the petitioner has filed the present application in the year 2022 after the lapse of about eight years.

In view of the above, the writ petition being WPA No.1361 of 2022 is dismissed. No order as to cost.

(Krishna Rao, J.)