

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3314 of 2017

Indri Devi W/o Late Madan Mohan Roy, Resident of Village - Gulam Ali Chak, Anandpur, Bihta, P.O. - Anandpur, District. - Patna, Bihar, 801103.

... .. Petitioner

Versus

1. The Union of India.
2. The Director General, C.I.S.F., New Delhi.
3. Commandant, C.I.S.F. Unit P.P.T. Pradeep District Jagat Singhpur, Orrissa.
4. Inspector General, C.I.S.F., New Delhi.
5. Deputy Inspector General, C.I.S.F., Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Shiv Kumar, Advocate
For the UoI	:	Mr. Awadhesh Kr. Pandey, Sr. CGC
		Mr. Abhishek Kr. Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 06-05-2025 Learned counsel for the petitioner and learned senior counsel for the Union of India are present.

2. Learned counsel for the petitioner submits that during pendency of the writ petition original petitioner died and substitution has been allowed. Now, wife of original petitioner is on record.

3. Learned counsel for the petitioner submits that petitioner is only interested with a limited prayer that the decision to pay sixty percent during period 18.04.2009 to 31.12.2011, which has been treated as non-duty and direction to pay sixty percent of the pay as proportionate pay and allowances only and to



count the said period of calculation of pension be set aside and in place thereof, learned counsel for the petitioner requests to pay hundred percent of the pay as proportionate pay and allowances only and to count the said period for calculation of pension.

4. In support of his argument, the counsel relies on judgment of Hon'ble Supreme Court of India in ***Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya & Ors.*** reported in **2013(10) SCC 324**, he relied on paragraph no. 22 and submits that the very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been, but for the illegal action taken by the employer. The injury is suffered by a person who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money and therefore, he submits that direction of payment of hundred percent payment treating him as non-duty be made after modifying the order contained in Annexure-5.

5. Learned senior counsel for the Union of India opposes the prayer of the petitioner and submits that the case of the petitioner and the case of ***Deepali Gundu Surwase (Supra)*** are quite different. He submits that the said case in which Hon'ble Supreme Court has held belongs to a person who is employee in a primary school, whereas in the present case the petitioner is an



employee of Central Force, the guideline and discipline for the school employee and the person from Central Force may not be equated and therefore, he submits that the ratio in the said case shall absolutely not apply in the present case.

6. After hearing the parties and upon perusal of the said judgment, it transpires that the finding of Hon'ble Supreme Court is applicable when the question of restoration of an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been, but for the illegal action taken by the employer. Here, in the present case, the point and the ground on the basis of which the respondent Director General, CISF has taken into consideration is purely on humanitarian count and not on the merit as like that of the case on which the petitioner relies. Therefore, this Court is of the firm view that there is no merit in the present case.

7. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

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