

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9645 of 2024

1. The Union of India Secretary Ministry of Communication, Department of Post, New Delhi-110001.
2. The Director General, Department of Post, Dak Bhawan, Sansad Marg, New Delhi-110001.
3. The Chief Postmaster General, Bihar Circle, G.P.O. Complex, Patna-800001.
4. The Director of Accounts (Postal), Patna- 800001.
5. Sr. Superintendent of Post Office, Patna Division, Patna- 800004.
6. Sr. Postmaster, Bankipur, Patna- 800004.

... .. Petitioner/s

Versus

Naina Devi Wife of Rama Sah, Son of Late Babu Lal Sah, resident of Village and P.O.- Dehri, P.S.- Punpun, Dehri, P.S.- Punpun, District- Patna- 804453.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Dr.K.N.Singh, ASG Mr.Kanak Verma (C.G.C.)
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

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

Date : 13-02-2025

In the instant petition, petitioner – Postal Department have assailed the order of the CAT dated 24.11.2023 passed in O.A. No. 1109 of 2019.

2. Respondents grievance is that she is legal heir of deceased *Rama Sah* and she is entitle to certain monetary benefits. Late Rama Sah’s services were engaged on part time basis in the



year 1982 and continued to discharge on part time basis till 01.06.1999. Thereafter, from 01.06.1999 to 31.07.2000, he was working seven hours per day. In this backdrop, he had been awarded temporary status w.e.f. 01.08.2000. He had attained age of superannuation and retired from service on 30.06.2018, thereafter, he had died. In this backdrop, the question for consideration is whether respondent - *Naina Devi* is entitled to have the benefit of regularisation of her husband pension and family pension to herself or not?

3. Having regard to the service record of the deceased – *Rama Sah* to the extent that initially he was appointment on *ad hoc* basis in the year 1982 and continued to work as such till 31.07.2000. Thereafter, on 01.08.2000, he had status of temporary. The scheme of the postal department for the purpose of regularisation of such of those temporary status persons is quota earmarked to the extent of 25% till 30.06.2018 and petitioner could not get eligibility for the purpose of regularisation or entering into the MTS cadre. Resultantly, he retired with tag of temporary status on 30.06.2018.

4. It is to be noted that with temporary status he has discharged the duties of the post w.e.f 01.08.2000 to 30.06.2018. In other words, for about 18 long years he was holding the post on



temporary basis. If the principle laid down in the case of **Secretary, State of Karnataka and Ors. vs. Uma Devi and Ors.** reported in (2006) 4 SCC 1 read with **State of Karnataka and Ors. vs. M.L. Kesari and Ors.** reported in (2010) 9 SCC 247 and later decision in the case of **Shripal & Anr. Vs. Nagar Nigam, Ghaziabad** decided on 31.01.2025 are taken into consideration, in that event, deceased – *Rama Sah* is entitled to have the benefit of regularisation or appointment in MTS cadre as and when he had completed 10 years of service. In other words, he would be regular holder of Government post. We have noticed in umpteen cases Government instead of regular recruitment to various post, posts are filed on temporary basis, such procedure may be for few months depending upon exigency and the same cannot continue for decade. It is relevant to take note of Article 23 of Constitution and it commence with heading as “RIGHT AGAINST EXPLOITATION and it is in relation to prohibiton of traffic in human beings and forced labour. In the present case, petitioners have resorted forced labour on the deceased – Rama Sah insofar as extracting work from the year 1982 till 30.06.2018, such practice is deprecated. In this regard, the concerned authority are hereby directed to pass a detailed speaking order insofar as regularizing his services while taking note of the principle laid down by the



Hon'ble Supreme Court in the aforementioned decisions. Thereafter, proceed to fix his pay in a particular post and extend all monetary benefits to the respondent. Further, from 01st July, 2018 till death of the deceased – *Rama Sah* pension is required to be calculated and disbursed in favour of the respondent legal heir. Thereafter, respondent – *Naina Devi* is entitled to family pension depending upon the pension fixation, family pension is required to be fixed. On account of the aforementioned exercise respondent is entitled to monetary benefits, the same shall be calculated and disbursed in favour of respondent – *Naina Devi* within a period of six months from the date of receipt of this order.

5. The petitioners have not made out a case so as to interfere with the CAT order dated 24.11.2023 passed in O.A. No. 1109 of 2019.

6. At this stage, learned counsel for the petitioners submitted that issue before the CAT is in respect of family pension only. Respondent being a widow of deceased employee, she cannot be asked to knock the doors of the Court. Time and again, in respect of regularisation and consequential benefits, therefore, we have exercised extra ordinary jurisdiction under Article 226 of the Constitution insofar as passing aforementioned order.



7. Accordingly, the present CWJC No. 9645 of 2024 stands dismissed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

abhishekk/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.02.2025
Transmission Date	NA

