

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4526 of 2016

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The Bihar State Road Transport Corporation through the Administrator,
Birchand Patel Marg, Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Transport Department, Bihar, Patna.
2. The Presiding officer, Labour Court, Patna
- 3.1. Nitu Singh D/o late Shyam Nandan Singh Resident of Village- Jahangirpur, P.O. Tehwara, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Verma, Senior Advocate Mr.Lakshmi Kant Tiwary, Advocate Mr. Nitesh Kumar, Advocate
For the State	:	Mr. Yogendra Pd. Sinha, AAG 7 Mr. Rajeev Kumar Sinha, AC to AAG 7
For the Respondent No. 3.1	:	None

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 15-05-2026

Heard Mr. P. K. Verma, learned Senior Counsel, assisted by Mr. Lakshmi Kant Tiwary and Mr. Nitesh Kumar, learned Advocates appearing on behalf of the petitioner, and Mr. Yogendra Pd. Sinha, AAG-7, assisted by Mr. Rajeev Kumar Sinha, AC to AAG-7, appearing for the State. However, despite repeated calls, none appeared on behalf of Respondent No. 3.1, though service has already been held to be valid vide Order No. 14 dated 15.04.2026.

2. Learned Senior Counsel for the petitioner submits that the present writ petition has been filed challenging the order



dated 30.11.2011 passed in Reference Case No. 17 of 2003 by the Presiding Officer, Labour Court, Patna. Learned Senior Counsel submits that a very limited question is involved in the present writ petition. He submits that, from the reference itself, it becomes crystal clear that Reference Case No. 17 of 2003 was initiated for adjudication of the following issue: “Whether termination of services of Shri Shyamnandan Singh, workman, by the Administrator, Bihar State Road Transport Corporation, Patna, is justified? If not, what relief is he entitled to?”

3. Learned Senior Counsel for the petitioner further submits that the date of termination of the said workman, namely, Shyamnandan Singh, was 12.05.2001 and the reference notification was issued vide Notification No. 7/Shram-D-110-11/02 L&E-30, Patna dated 03.02.2003. The matter was referred under the Industrial Disputes Act to the Labour Court for adjudication. Learned Senior Counsel categorically submits that it has been specifically acknowledged in Paragraph 5 of the impugned order that the management authority had filed its written statement before the Court and thereafter, at some stage, stopped pursuing the case, as a result of which the proceeding was directed to proceed *ex parte* against the management vide order dated 20.08.2008.



4. Learned Senior Counsel for the petitioner further submits, while explaining the circumstances under which the impugned order passed by the Presiding Officer is without jurisdiction, that on the date the said order was passed, the cause of action itself was no longer in existence. He submits that the termination order dated 12.05.2001 had already been set aside by the BSRTC (petitioner) and the services of the workman, Shyamnandan Singh, had been treated as continuous from 12.05.2001, i.e., the date of termination, till 31.07.2004, i.e., the date of superannuation. Learned Senior Counsel further submits that the retiral benefits have already been paid to the workman and only the back wages were not paid. Counsel submits that the decision of the management accepting his joining after setting aside the dismissal order dated 12.05.2001 and treating his service as continuous, while denying back wages for the period he had not worked, was never challenged before any authority and, therefore, attained finality. However, this aspect was not considered by the Labour Court.

5. Learned Senior Counsel further submits that the final order was passed on 30.11.2011, whereas the termination order, in respect of which the reference had been initiated, had already ceased to exist on 11.04.2008. Therefore, he submits



that the Labour Court passed an order in relation to a non-existent cause of action on the date of the final decision. He accordingly submits that the order passed by the Presiding Officer, Labour Court is bad in law, without jurisdiction, and has been passed despite there being no surviving cause of action on the date of its pronouncement.

6. Learned Senior Counsel appearing for the State submits that whatever has been argued by the learned Senior Counsel appearing for the BSRTC has been adopted by him and he fully supports the said submissions.

7. Respondent No. 3, namely the workman in whose favour the impugned order has been passed, is no more. Notices were issued to his daughter, which were received by his cousin, but despite lapse of more than 30 days, no one has appeared before this Court on behalf of Respondent No. 3(i). This Court, vide order dated 15.04.2026, has already treated the service upon Respondent No. 3 as valid.

8. With a view to decide the issue, which is technical in nature, this Court is of the opinion that only one question is involved, namely, whether the Labour Court was competent to pass an award on a reference when the very question framed in the reference had become non-existent.



9. For the purpose of answering the said issue, this Court deems it appropriate to advert to the fundamental principles governing adjudication under the Industrial Disputes Act. In India, adjudication under the Industrial Disputes Act follows the statutory mechanism whereby a workman has a right to approach the Labour Authority, whether of the State or the Central Government, as the case may be. Upon conciliation proceedings being conducted in presence of both parties, if no settlement is arrived at, the dispute is referred by the appropriate Government for adjudication.

10. In the present case, the matter was referred by the State Government and the question for adjudication was framed by the Governor vide Notification No. 7/Shram-D-110-11/02 L&E-30, Patna dated 03.02.2003, whereby the matter was referred to the Presiding Officer, Labour Court, Patna. The Presiding Officer registered the same as Reference Case No. 17 of 2003 for adjudication.

11. From the records and particularly Paragraph 9 of the impugned award, it transpires that the very issue under reference, namely whether the termination dated 12.05.2001 was justified, had become non-existent on 11.04.2008, inasmuch as the termination order itself had already been set aside and the



service of the workman had been restored. The workman had accepted such reinstatement, subsequently superannuated on 31.07.2004, and also received his retiral benefits.

12. From such materials available on record, it clearly transpires to this Court that the very cause of action which formed the basis of the reference and adjudication no longer survived. Therefore, this Court is of the considered view that once the cause of action itself had become non-existent, no adjudication ought to have been undertaken. More particularly, no amendment had ever been sought in the pleadings claiming any alternative relief, as is permissible in civil proceedings.

13. Adjudication under the Industrial Disputes Act is also required to be guided by the principles analogous to those contained in the Code of Civil Procedure, 1908, as contemplated under Section 11 of the Industrial Disputes Act, 1947. Accordingly, this Court is of the firm opinion that in absence of a surviving cause of action, there remained no occasion for adjudication. However, ignoring the aforesaid legal position, the Presiding Officer, Labour Court, Patna proceeded to adjudicate the dispute and passed the impugned award on a reference which had already become non-existent on the date of the final order.



14. Hence, the issue is answered in favour of the petitioner and against the respondents. Consequently, the award/order dated 30.11.2011 passed in Reference Case No. 17 of 2003 by the Presiding Officer, Labour Court, Patna is held to be bad in law and is accordingly set aside.

(Dr. Anshuman, J)

Ashwini/Manshi

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18.05.2026
Transmission Date	NA

