

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 145 of 2017

1. Union of India through Ministry of Railways, Rail Bhawan, New Delhi, P.O.+P.S.- New Delhi, Dist.- New Delhi
2. General Manager, East Central Railway, P.O.+P.S. Hajipur, Dist. Hajipur, Bihar
3. The Divisional Railway Manager, Eastern Central Railway, P.O. and P.S.-Dhanbad, District : Dhanbad
4. The Sr. Divisional Personal Officer, Eastern Central Railway, Dhanbad, P.O. and P.S.-Dhanbad, District: Dhanbad
5. The Welfare Inspector, Eastern Central Railway, Dhanbad, P.O. and P.S. Dhanbad, District: Dhanbad

... ... **Appellant/Defendants/Respondents**
Versus

Madanlal Singh, S/o Biswanath Prasad Singh, R/o Loco Colony, Rly. Qr. No. 98/B, P.O.-Gomoh, P.S.-Hariharpur, Dist. Dhanbad

... ... **Appellants/Defendants/Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant	: Mr. Prashant Pallav, ASGI
	: Mr. Bakshi Vibha, C.G.C.
	: Mr. Ayush (A.C. to A.S.G.I.)
For the Respondents	: Mr. Ashutosh Anand, Advocate
	: Mr. Vincent Rohit Marki, Advocate

20/13.01.2026

Heard the learned counsel appearing on behalf of the appellants.

2. This appeal has been filed against the judgment and decree dated 24.06.2016 and 08.07.2016 respectively passed by the learned District Judge, XI, Dhanbad in Civil Appeal No. 28 of 2015 whereby the learned 1st appellate court has allowed the appeal and reversed the judgment and decree dated 02.03.2015 and 12.03.2015 respectively passed by the learned Civil Judge, Jr. Division, Dhanbad in Title Suit No. 7 of 2006.

3. The learned counsel for the appellants has submitted that the impugned judgment passed by the learned 1st appellate court does not abide by the provision of Order 41 Rule 31 of CPC and therefore a substantial question of law be framed. He has referred to the judgment passed by this court in *S.A. No. 28 of 2017 reported in 2025 SCC Online Jhar. 2350 (Sangram Basky and another versus Hauwa*

Hembrom and others) decided on 02.01.2025. He has referred to paragraph 21 of the aforesaid judgment which is quoted as under: -

“Upon perusal of the impugned judgment passed by the appellate court, this Court finds that on the bare perusal of the judgment, the first appellate court has not adjudicated the appeal in accordance with the provisions of Order 41 Rule 31 of CPC when read with the aforesaid judgments passed by Hon’ble Supreme Court and Patna High Court. On the face of it, neither the points for determination were framed, nor its findings is supported by reasons, nor it has dealt with the reasons of the learned trial court while reversing the judgement and decree passed by the learned trial court.”

4. After hearing the learned counsel for the appellants, this court finds that the suit was filed seeking a declaration that order dated 30.07.2003 passed by defendant no. 4 (Sr. Divisional Personal Officer, Eastern Central Railway) was illegal and also a declaration that Biswanath Prasad Singh and Radha Prasad Singh are one and the same person and the plaintiff was entitled for service benefit of his father. A direction was also sought to the defendant to pay the service benefits of the deceased’s father of the plaintiff.

5. The suit was initially filed by the mother namely Basmati Devi but on account of her death, her son Madan Lal Singh was substituted.

6. The case of the plaintiff was that Biswanath Prasad Singh had joined the services under the respondent as back as on 23.08.1964 who died in harness on 26.07.2000. The plaintiff’s mother i.e. Basamati devi was entitled to receive the post retiral benefits from the defendant, but was not paid. She filed a case before Central Administrative Tribunal being O.A. No. 79 of 2003 and vide order dated 26.03.2003, the case was disposed of directing the defendant to consider the representation. The claim was rejected vide order dated 30.07.2003 on the ground that the offer of appointment was given to one Biswanath Prasad Singh but in his place, his elder brother Radha Prasad Singh had joined the service and as such Radha Prasad Singh had impersonated his brother Bishwanath Prasad Singh right from the year 1964. The basis of said finding by the authority was verification

of LTI on the service record of Bishwanath Prasad Singh, the LTI affixed on the panchnama by the finger print expert of Railways and on the basis of the letter and statement given by one Dina Nath Singh, another brother of the deceased Biswanath Prasad Singh.

7. It was pleaded in the suit that Biswanath Prasad Singh and Radha Prasad Singh were one and the same person and one Manoj Kumar who had made the complaint on 23.10.2000 alleging that he was the son of Biswanath Prasad Singh and was entitled to receive the service benefit of Biswanath Prasad Singh had given another letter to defendant no. 2 stating that his name was wrongly shown in the voter list as son of Biswanath Prasad Singh so he had filed the objection and that he is the son of Budhnath, who never worked with the defendants. Manoj Kumar also admitted that Biswanath Prasad and Radha Prasad Singh were one and the same person and the plaintiff is the legal heir of deceased Biswanath Prasad Singh. Manoj Kumar had also sworn an affidavit dated 06.02.2004 to that effect. The plaintiff also relied upon the PAN Number issued to Biswanath Prasad Singh and also the deed of exchange dated 22.12.1991 executed by Smt. Kanti Devi to Most. Rajia, daughter of Paran Singh which showed that Biswanath Prasad Singh was the husband of the plaintiff and that he had an alias name namely Radha Prasad Singh. Partition deed was also relied upon where the Bishwanath Prasad Singh was shown having alias name as Radha Nath Singh.

8. The defendants filed a written statement opposing the prayer. It was their case that offer of appointment was given to Biswanath Prasad Singh and in his place his elder brother Radha Prasad Singh had joined w.e.f. 23.08.1964 through impersonation and the finger print expert of the Railways opined that Radha Prasad Singh rendered his service in the place of Bishwanath Prasad Singh from 23.08.1964 to 26.07.2000 till death and on this basis, the claim of post retiral benefit was sought to be denied to the plaintiff. It was asserted that after enquiry a speaking order dated 30.07.2003 was passed rejecting the claim of the plaintiff seeking post retiral benefit. It was also asserted that the fact came to notice only when Manoj Kumar Singh

son of late Biswanath Prasad Singh intimated by his application that dated 23.10.2000 that his father namely Biswanath Prasad Singh had expired in the year 1983-84 and Dinanath Singh, brother of late Bishwanath Prasad Singh, intimated the office of the defendants as to the family particulars of Babu Lal Singh on 02.10.2000, according to which Radha Prasad Singh, Bishwanath Prasad Singh, Srinath Singh and Dina Nath Singh were sons of late Babu Lal Singh. On this basis, it was asserted that Radha Prasad Singh had impersonated himself as Biswanath Prasad during his service.

9. The learned trial Court framed the issues including the issue as to *whether Bishwanath Prasad Singh and Radha Prasad Singh are one and the same person?* The plaintiff exhibited oral and documentary evidences and Manoj Kumar was examined as P.W. 2. and plaintiff herself was examined as P.W. 1. Numerous documentary evidences were exhibited including the affidavit of Dina Nath Singh as exhibit-5 and affidavit of Manoj Kumar Singh as Exhibit-5/a and also exhibit-7 which was registered sale deed no. 14926 dated 25.10.1991 and also exhibit 7/a to 7/b which were the two-voter identity card of Basmati Devi and Madan Lal Singh.

10. *On the other hand, the defendants only filed their written statement and did not adduce any evidence in the course of trial.*

11. The learned Trial Court first decided the issue as to whether Bishwanath Prasad Singha and Radha Prasad Singh were one and the same person. The learned court highlighted that during cross examination, P.W. 1 had admitted in paragraph 31 that on 02.10.2000 one Dina Nath Singh had submitted family list of Late Babu Lal Singh who had four sons namely Radha Singh, Biswanath Singh, Dina Nath Singh and Srinath Singh and on this basis the court recorded that the plaintiff herself had admitted that Radha Prasad Singh and Biswanath Prasad Singh were two persons. The court further observed that the plaintiff did not produce any family list and Khatiyan of her native place Rohtas Bihar in support of her claim. While considering the exchange deed (Exhibit-7) the court observed that the first name Radha Prasad Singh as Biswa Prasad Singh and so the inference can

be drawn that the deceased employee having the first name as Radha Prasad Singh. It was also observed that affidavit sworn before Public Notary cannot be treated as evidence.

12. While considering the evidence of P.W. 2, on whose application the defendant authorities have conducted the inquiry, the learned trial court observed that this witness had admitted the claim of the plaintiff with ulterior motive. But he admitted that inquiry was made by the Railway authority on his application and he did not give any documentary evidence in support of his claim.

13. The other witnesses were also considered.

14. Ultimately the court held in paragraph 11 as under:-

“ 11. On perusal of the record I find an affidavits dated 02.11.04 sworn by Dinanath Singh before executing magistrate, Dehri on Sone (Rohtas) which is Ex. 5 has been filed on behalf of plaintiff, he shows in para 4 that welfare inspector took his signature on the white paper without his consent. Thus, inference may be drawn that railway conducted the inquiry through it's welfare inspector and who went plaintiff's native place at Azad Basti, P.S. Maharajganj, PO-Tilothu, Dist-Rohtas, Bihar and after inquiry submitted report. It is also fact that Dinanth Singh is still living and his affidavit before Executive Magistrate is of no valued and same cannot be treated as evidence U/s 3 of Evidence Act, until and unless he came before the court and adduced and is subjected himself for cross-examination.

From perusal of the record I also find that no voter list and any revenue document and family list issued by the government regarding deceased's native place, could be furnished by the plaintiff's side which may shows that late Bishwanath Prasad singh alias Radha Pd. Singh were same persons. In absence of documentary evidence of native place at Rohtas it cannot be held that both Bishwanath Prasad singh and Radha Pd. Singh was same person and the documents furnished by the plaintiff side was prepared at Gomo, Dhanbad and they are not sufficient to rebut the finding of Railway and to decide the case in favour of plaintiff. So this issue is decided against the plaintiff and favour to defendant side.”

15. Thus, the learned trial court was ultimately of the view that in absence of any documentary evidence of native place at Rohtas, it

could not be held that Bishwanath Prasad Singh and Radha Prasad Singh were one and the same person and the documents furnished by the plaintiff were prepared at Gomo, Dhanbad and they were not sufficient to rebut the finding of the Railway and decide the case in favour of the plaintiff. It is important to note that the Railways did not adduce any evidence and even the finding of the Railways and the materials which the Railway authority collected during inquiry was not placed on record, although the written statement of the Railways referred to various verification by the handwriting expert which became one of the basis for the Railways to come to the conclusion that Biswanath Prasad Singh and Radha Prasad Singh were not one and the same person.

16. The *learned 1st appellate court* has considered the materials on record threadbare and has also taken note of the issues which were framed by the learned trial court in paragraph 5 of the impugned judgment and the learned appellate court has dealt with the *core issue* involved in this case. While discussing the evidences as to whether Bishwanath Prasad Singh and Radha Prasad Singh were one and the same person, the learned 1st appellate court has specifically recorded in paragraph 14 as follows: -

“After hearing both sides and perusing the materials on record I am of the view that the main point for determination involved in this appeal is whether late Bishwanath Prasad Singh and Radha Prasad Singh are one and the same person.”

17. The learned 1st appellate court has considered the evidence of P.W. 1 Basmati Devi, the original plaintiff in paragraph 15 as follows:-

“ On this point PW 1 Basmati Devi, the original plaintiff and the wife of deceased Lt. Bishwanath Prasad Singh has deposed that her husband Lt. Bishwanath Prasad Singh joined in Eastern Railway as fitter/khalashi on 21.8.64 at Gomoh and ultimately on 26.7.2000 while in service he died and since then she has not received any retirement benefit, pension etc. even after giving several applications to the railway and ultimately at the direction of Hon'ble CAT, the defendant no.

IV decided and rejected her representation on 30.7.03 on the ground that one Radha Prasad Singh had joined the service in place of Bishwanath Prasad Singh which is out and out wrong whereas Bishwanath Prasad Singh and Radha Prasad Singh were one and the same person. The defendant no. IV says that the finger print expert of railway on verification of LTI of Bishwanath Prasad Singh in service record and LTI of panchnama was found to be of Radha Prasad Singh. She has further deposed that on 23.10.2000 Manoj Kumar had given an application before the railway that he was the son of Bishwanath Prasad Singh and so he was entitled to service etc. in place of him and subsequently the said Manoj Kumar had further given an application that his previous application dt. 23.10.2000 was based on wrong entry of the name of his father as Bishwanath Prasad Singh in voter list whereas the fact is that he was the son of Budhnath Singh and his father had never worked in Railway and further stated that Bishwanath Prasad Singh & Radha Prasad Singh were one and the same person and Basmati Devi being his wife and Madanlal being his son are his heirs. Not only this, Deolagna Kuer, the mother of Manoj Kumar has also given an affidavit on 6.2.04 regarding the same fact. She has further deposed that the regd. Sale deed dated 25.10.91 also proves that Radha Prasad Singh and Bishwanath Prasad Singh were one and the same person. This witness has also proved several documents. In paragraph 25 of her cross-examination also she has admitted that the registered sale deed is the proof that her husband had two names as Bishwanath Prasad Singh & Radha Prasad Singh.”

18. So far as the evidence of P.W. 2 is concerned, the same has also been considered which reveals that he was in inimical terms with Basmati Devi due to land dispute. It is not in dispute even from the side of the defendants that the entire enquiry triggered by virtue of application furnished by P.W. 2 Manoj Kumar. P.W. 2 had also stated in his application that Biswanath Prasad Singh worked till 1983-84 but he deposed before the court that such fact was incomplete and he also deposed that his father is Budh Nath Prasad Singh and he is not the son of Biswanath Prasad Singh, although in the application of complaint he stated himself to be the son of Biswanath Prasad Singh. The learned 1st appellate court recorded in paragraph 20 that on the

basis of oral evidence of P.W. 1 Basmati devi, P.W. 2 Manoj Kumar, P.W. 3, 4, 5 it was clear that Biswanath Prasad Singh and Radha Prasad Singh were one and the same person.

19. The 1st appellate court also specifically considered the documentary evidences placed on record including the Registered deed of exchange dated 25.10.1991 wherein Biswanath Prasad Singh was shown with alias name as Radha Prasad Singh. The court recorded that this deed of exchange was much earlier when the dispute arose with regard to genuineness of the name of Biswanath Prasad Singh as Radha Prasad Singh. The court also took into consideration Exhibit-4/b which was the application given by Manoj Kumar who stated that Biswanath Prasad Singh had also known as Radha Prasad Singh.

20. The learned 1st appellate court on the basis of the evidence adduced on behalf of the witnesses of the plaintiff observed that the onus shifted upon the defendants to counter the evidence of the plaintiff or to prove the basis of the finding dated 30.07.2003 passed by defendant no. 4 but this onus was not discharged by the defendants. The learned court ultimately held that on the basis of oral and documentary evidence, Biswanath Prasad Singh and Radha Prasad Singh were one and the same person and observed that the learned trial court failed to properly appreciate the evidences on record and passed the judgment and decree which deserved to be set aside.

21. This court finds that not only the point of determination was framed by the learned 1st appellate court observing that the main point was that whether Biswanath Prasad Singh and Radha Prasad Singh were one and the same person, but the learned 1st appellate court has also recorded that the learned trial court had not appreciated the evidence on record properly while passing the impugned judgment. The learned 1st appellate court has considered every material placed on record threadbare including the sale deed dated 25.10.1991 which showed that Biswanath Prasad Singh with an alias name of Radha Prasad Singh and admittedly at that point of time, there was no dispute as to the identity of Biswanath Prasad Singh and Radha Prasad Singh.

The false complaint lodged by Manoj Kumar was also duly explained and considered by the learned 1st appellate court. The defendants did not adduce any evidence and even their own enquiry report was not placed on record.

22. This court finds that the learned trial court was of the view that the plaintiff was unable to rebut the finding of the Railways in the enquiry report so as to decide the case in favour of the plaintiff and the learned 1st appellate court had considered the materials on record and had recorded that the plaintiff had duly adduced evidence and the onus shifted upon the defendants to prove their case of impersonation. This court finds that the learned 1st appellate court has decided the case in accordance with law and there is no violation of the mandate of Order 41 rule 31 of CPC. Accordingly, the judgment relied upon by the appellants does not help the appellants in any manner. Further, no perversity in the matter of appreciation of evidence by the learned 1st appellate court has been pointed out by the learned counsel for the appellants.

23. This court is of the considered view that no substantial question of law, much less the substantial question of law as suggested by the learned counsel for the appellants arise for consideration in this case. Consequently, this 2nd appeal is hereby dismissed.

24. Pending I.A., if any, is closed.

25. Let this order be communicated to the court concerned through FAX.

(Anubha Rawat Choudhary, J.)

Dated: 13/01/2026

Uploaded on: 26.02.2026

Binit