

(1967) 12 PAT CK 0007

In the Patna High Court

Case No : C.W.J.C. No"s. 556 of 1966 and 304 of 1967

L.N. Keshari and Others

APPELLANT

Vs

The Divisional Superintendent, Eastern Railway and Others

 Vidya Sagar Mishra Vs The Union of India and Others

RESPONDENT

Date of Decision : 14-12-1967

Acts Referred:

Citation : (1967) 12 PAT CK 0007

Hon'ble Judges : R.L. Narasimham, C.J;B.N. Jha, J

Bench : Division Bench

Advocate : B.C. Ghose, Mahendra Prasad Pandey, Sanat Kumar Chattopadhyaya and Pralay Kumar Sinha, for the Appellant; P.K. Bose, for the Respondent

Judgement

R.L. Narasimham, C.J. and B.N. Jha, J.—Civil Writ Jurisdiction case nos. 556 of 1966 and 304 of 1957 are dealt with together as they deal with the same matter. In the two writ petitions, taken together there are twenty three petitioners who are now working in the Eastern Railway and they are now designated as Coal and Tool Checkers. They have filed these two writ petitions for quashing an order dated the 16th August, 1966 (Annexure D in C.W.J.C. 556 of 1966 and Annexure E in C.W.J.C. 304 of 1957) of the Divisional Superintendent, Dinapore Division of the Eastern Railway, fixing their pay at Rs. 135/- per month in the scale of Rs. 105-135. Their main point is that they were fixed in the scale of Rs. 110-180 and that suddenly, for no reason whatsoever, their scale was reduced to the lower one of Rs. 105-135. They have also filed some papers, namely, Annexure F-6 in C.W.J.C. 556 of 1966 and Annexure A in C.W.J.C. 304 of 1967 which show that the Railway authorities themselves informed them that they were confirmed as Coal Checkers in the grade of Rs. 110-180.

2. From the counter-affidavit filed by Mr. Chakravarty on behalf of the Eastern Railway it appears that the Railway authorities were under the impression that due to some mistake these petitioners were put in the grade of Rs. 110-180 and that this mistake was rectified and they were brought down to the scale of Rs.

105-135 to which they were entitled.

3. In these writ petitions it is not necessary for us to decide whether any such mistake was committed and if so whether the Railway authorities were justified in reducing the scale. The main question, however, is whether once the petitioners have been confirmed in the grade of Rs. 110-180 the Railway authorities would be justified in reducing their scale of pay without drawing up a formal proceeding against everyone of them separately and giving everyone of them an opportunity to show cause. It may be that in respect of some of the petitioners there was a mistake in fixing higher scale but it may be that in respect of others there was no mistake whatsoever. To pass a general order like Annexure D fixing the scale of the petitioners in the lower scale without any reference to the previous order confirming them to the higher scale and without even mentioning therein that the previous order was passed by mistake was highly objectionable. Prima facie as soon as an officer is confirmed he gets a right to the post and to the scale of pay fixed for the post in the order of confirmation. Any reduction in the scale should be made according to law after giving him an opportunity of being heard. For these reasons, therefore, we allow these two writ petitions and quash the order contained in Annexure D in C.W.J.C. 556 of 1966 and Annexure E in C.W.J.C. 304 of 1967 and direct that they should be given the pay in the scale of Rs. 110-180 unless and until it is reduced in accordance with law. There will be no order for costs.