

(2012) 06 PAT CK 0032
In the Patna High Court
Case No : CWJC No. 10810 of 2012

Sunil Kumar Singh @ Sunil Singh	Vs	APPELLANT
The Union of India and Others		RESPONDENT

Date of Decision : 26-06-2012

Acts Referred:

Citation : (2012) 4 PLJR 24

Hon'ble Judges : Ramesh Kr. Datta, J

Bench : Single Bench

Advocate : Binay Kumar Singh, for the Appellant; Anil Singh, for the Respondent

Final Decision : Dismissed

Judgement

Ramesh Kr. Datta, J.—Heard learned counsel for the petitioner and learned counsel for the respondent North-East Frontier Railway. The petitioner has filed the writ petition for quashing the order dated 28.5.2002 passed by Senior Security Commissioner, RPF, Katihar by which he has held that no retiral benefit can be given to the petitioner before him, i.e., the mother of the present petitioner.

2. Earlier the mother of the petitioner, Rajmahal Devi, had filed CWJC No. 12970 of 2001 before this Court praying for payment of retiral benefits of her husband late Raj Ballam Singh, who was appointed in the R.P.F. as a Constable in the year 1963 and was claimed to have died-in-harness in the year 1977. The writ petition was disposed of by order dated 4.1.2002 with a direction to the petitioner of that case to file a fresh representation before the respondent, who shall consult the service records of the husband of the said petitioner and give a hearing to the said petitioner and then pass orders on the representation.

3. Thereafter on receipt of the representation from the petitioner's mother on 25.1.2002 it is stated by the respondents that a special drive was launched by the respondents to search the service record as the case was more than 28 years old but no record was found in the office, except one record in settlement

register that the above employee (petitioner's father) was discharged from service on 6.11.1973. The petitioner's mother alongwith her son (the present petitioner) thereafter on notice being issued appeared before the respondent authorities and they were explained in detail regarding the decision taken not to grant retiral benefits. The petitioner was asked if any document was in their possession regarding the deceased staff and they replied in the negative. They informed that all the documents which they had, had been lost but no FIR regarding the above loss/theft was even lodged by the petitioner or other family members.

4. On the basis of the said position the conclusion was drawn by order dated 28.5.2002 that no retiral benefit can be given to the petitioner. The petitioner and his mother were evidently satisfied with the same but suddenly after 10 years the petitioner has chosen to challenge the said order in the present writ petition.

5. It is evident from the facts stated above that the claim raised by the petitioner is a state claim, without any reason or explanation for the delay. Moreover, in such old matter the onus would be on the petitioner to produce any record from which it would be evident that the father of the petitioner was in service at the time of his death, otherwise the statement made in the impugned order that he was discharged from service on 6.11.1973 on the basis of the record in settlement register has to be accepted.

6. In the above circumstances, this Court does not find any occasion to proceed further with the writ petition, which is hit by gross delay and laches. The writ application is, accordingly, dismissed.