

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2592 of 2014

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The Bihar State Road Transport Corporation through the Chief of
Administration, Birchand Patel Marg, Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Presiding Officer, Labour Court, Patna.
3. Siya Singh S/O Late Rewa Singh Ex- Conductor, Bihar State Road Transport Corporation, Bankipur, Depot, Patna, Permanent Of Village Machhariyawan, P.S- Fatuah, District- Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 17753 of 2018

=====

Siya Singh Son of Late Rewa Singh, Resident of Village- Machhariyawan,
Police Station- Fatwah, Anchal Daniwan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Labour, Government of Bihar, Patna
2. District Magistrate-cum-Collector, Patna.
3. Certificate Officer-cum-District Panchayati Raj Officer, Patna.
4. Bihar State Road Transport Corporation through its Administrator, Pariwahan Bhawan, Veer Chand Patel Road, Patna
5. Administrator, Bihar State Road Transport Corporation, Pariwahan Bhawan, Veer Chand Patel Road, Patna
6. Chief Accounts Officer, Bihar State Road Transport Corporation, Pariwahan Bhawan, Veer Chand Patel Road, Patna
7. Divisional Manager, Bihar State Road Transport Corporation, Patna Division, Bankipur, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2592 of 2014)

For the Petitioner/s : M/s Prabhat Kumar Verma, Sr. Advocate
Lakshmi Kant Tiwary,
Jainendra Kumar Sinha, Advocates

For the State : Mr. Arvind Kumar, AC to GA 9

For the Respondent No.3: Mr. Raj Shekhar, Advocate

(In Civil Writ Jurisdiction Case No. 17753 of 2018)

For the Petitioner/s : Mr.Raj Shekhar, Advocate



For the Respondent/s : M/s Prabhat Kumar Verma, Sr. Advocate
Jainendra Kumar Sinha, Advocates

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 23-06-2025

1. These two Writ petitions, are interlinked and interconnected, were heard together and disposed of by a common order.

2. It is relevant to mention here that the Respondent No. 3 (Siya Singh) of CWJC No. 2592 of 2014 is the petitioner in CWJC No. 17753 of 2018.

Re. CWJC No. 2592 of 2014

3. The petitioner has filed the Writ petition for the following reliefs:

That this application is being filed for quashing the decision/judgment dated 19.06.2013 passed in Misc. case no. 02 of 2008, whereby the Learned Presiding Officer, Labour Court has granted back wages amounting Rs. 11,70,990.00 only after computation U/s 33-C(2) of the Industrial Dispute Act 1947 (hereinafter referred as ID Act) of his idle period as per direction of the award passed by him in Reference case no. 24/1995 dated 14.11.2006. The Learned presiding officer has passed



aforesaid order without consideration the fact and circumstances of the case and without application of his judicial mind. He has failed to consider the fact by which the workman, respondent no. 3 has voluntarily forgotten his back wages and in so called idle period he engaged in some other job.

Re. CWJC No. 17753 of 2018.

4. The petitioner has filed the Writ petition for the following reliefs:

“For issuance of an appropriate writ/s, direction/s, Order/s, in the nature of certiorari, for quashing of order dated 18.04.2018 passed by the respondent No. 3 (Certificate Officer) in Certificate Case No. 699/ 2014-15, whereby and where under the respondent No. 3 (Certificate Officer) in certificate Case No. 699/ 2014-15, whereby and where under the respondent No. 3 has recall the warrant issued against the certificate debtor.

(ii) For issuance of an appropriate writ/s, direction/s, order/s, in the nature of mandamus for commanding respondent No. 3 to



proceed further in aforesaid certificate proceeding, so that if may comes to its logical end as soon as possible and execute the order dated 19.06.2013 passed in Misc. Case No. 02/2008 by the Learned Presiding Officer, Labour Court, Patna.

(iii) For issuance of an appropriate writ/s, direction/s, order/s in the nature of mandamus for commanding the respondent/s No. 4 to 7 and direct them to pay entire dues amount to petitioner, in terms of order dated 19.06.2013, passed in Misc. Case No. 02/2008 by the Learned Presiding Officer, Labour Court, Patna.

(iv) Any other relief/s, for which the petitioner may found entitled by this Hon'ble Court."

5. Brief facts leading to both the Writ petitions are as : -Respondent No. 3, Siya Singh (Petitioner in CWJC No. 17753 of 2018), joined service as a Conductor in the Bihar State Road Transport Corporation (hereinafter "the Corporation") in 1972. According to the Corporation, on 24.01.1978, while on duty on



vehicle no. BHT-8015 (Rupauli-Patna service), Siya Singh collected fare from 10 unbooked passengers without issuing tickets. A total of 17 unbooked and 11 booked passengers were found on board. He also allegedly misbehaved with the checking team.

6. Following a departmental inquiry, he was found guilty of collecting illegal fare near Harda Bazar and was dismissed from service on 19.09.1978 vide Memo No. 9992 issued by the Divisional Manager, BSRTC, Patna. Siya Singh challenged the termination, claiming it was illegal. On demand of Respondent No. 3, the Government of Bihar referred the matter to the Presiding Officer, Labour Court, Patna, under Section 10(1) (C) of the Industrial Disputes Act, via Notification No. 3/D1-13059/93 L&E-611 dated 13.09.1995. The reference under the Industrial Disputes was as follows:

"Whether the termination of services of Shri Siya Singh, Conductor, BSRTC, Bankipur Depot, is proper and justified? If not, what relief is the workman entitled to?"



7. The matter was registered as Reference Case No. 24/1995. After hearing both parties and considering oral and documentary evidence, the Labour Court passed an Award dated 14.11.2006 (Annexure-2), setting aside the dismissal order and directing BSRTC to reinstate Siya Singh with full back wages and other consequential benefits. Pursuant to this, Siya Singh submitted representations dated 13.04.2007 and 20.04.2007 to the Divisional Manager, BSRTC, Patna, requesting reinstatement and for payment of dues as per the Award. He was reinstated on 31.12.2007 vide Order No. 819 dated 28.12.2007. According to Siya Singh, the back wages and other benefits granted by the Labour Court were never paid, despite repeated requests.

8. The petitioner, BSRTC, in its writ petition, submitted that the Administrator of the Corporation had recommended the reinstatement of Respondent No. 3/Siya Singh, without granting him back wages and consequential benefits as provided in the Labour Court's Award. Respondent



No. 3 allegedly accepted this condition.

9. It is also submitted by BSRTC that after reinstatement, Respondent No. 3 continued working regularly in the Corporation. However, after a year, he again raised a claim for back wages and consequential benefits, by filing a Miscellaneous Application under Section 33(C)(2) of the Industrial Disputes Act, 1947. The case was registered as Misc. Case No. 2/2008 before the Presiding Officer, Labour Court, Patna. In this application, Siya Singh claimed an amount of ₹16,90,238 (Rupees Sixteen Lakhs Ninety Thousand Two Hundred Thirty-Eight) as back wages and other consequential benefits for the period from 19.09.1978 to 30.12.2007.

10. The Presiding Officer Labour Court, Patna has passed order in Misc. Case No. 02 of 2008 on 19th June, 2013 after hearing both the parties, the relevant part is quoted hereinbelow:

“In the result, I find and hold that the delinquent applicant is entitled to get Rs. 11,70, 990/- only instead of his total back wages and other



consequential benefits of his idle period from the management as per the Award. Opposite parties are hereby directed to pay Rs. 11,70,990/- to the applicant as per their own computed amount given in letter memo no.-24 dt-03.01.2011 (Ext.-7), within the three month of this order otherwise they would be liable to pay interest @ 6% P.A on aforesaid amount. This miscellaneous application is allowed accordingly.”

11. Pursuant to the aforesaid order, the petitioner Siya Singh submitted a representation dated 26.06.2013 to the Administrator, BSRTC, requesting for payment, in accordance with the Labour Court’s direction. However, no action was taken.

12. The petitioner further contends that upon his representation dated 11.12.2014 to the Deputy Labour Commissioner, Patna Division, the Deputy Labour Commissioner directed the District Certificate Officer, Patna, via Letter No. 4643 dated 12.12.2014, to act upon Letter No. 3523 dated 25.11.2014 issued by the Labour Commissioner,



Bihar, for recovery of dues. Consequently, Certificate Case No. 699/2014-15 was initiated, and notices were issued to the certificate debtors (Respondent Nos. 4 to 7). On their failure to comply, a warning notice (Letter No. 19/Certi. dated 08.05.2015) was issued.

13. As the certificate debtors again failed to respond, a memorandum under Section 706 of the Bihar and Orissa Public Demands Recovery Act was issued through the Officer-in-Charge, Gandhi Maidan Police Station, vide Letter No. 34 dated 17.06.2015, directing submission of the service report. Upon continued non-compliance, attachment notices were issued through the Officers-in-Charge of Gandhi Maidan and Kotwali Police Stations for execution vide Letter No. 54/Certi. dated 17.12.2016. The Certificate Officer subsequently issued repeated warrants and attachment orders on 13.07.2017, 29.08.2017, 13.10.2017, 07.12.2017, 18.01.2018, 19.03.2018, and 18.04.2018.

14. Learned counsel for the respondent No.



3 submitted that it was shocking to discover that the Divisional Manager, BSRTC, Patna, issued Letter No. 599 dated 18.04.2018 to the Certificate Officer, Patna, requesting recall of the warrant, upon which the Certificate Officer, without any payment being made by the debtors, recalled the warrant the same day. The petitioner contends this action was illegal, as the Certificate Officer has no jurisdiction to recall or review earlier orders unless payment is made or a higher court intervenes.

15. The respondent No.3, thereafter submitted a representation dated 02.07.2018 to the District Magistrate, raising his grievances. It is submitted that the respondent No. 3 is entitled to receive back wages with interest as per the order dated 19.06.2013 passed in Misc. Case No. 2/2008 by the Presiding Officer, Labour Court, Patna.

16. On the other hand, Learned counsel for BSRTC argued that the Labour Court granted reinstatement with full back wages and consequential benefits without applying judicial mind, disregarding the principle of "no work, no



wage” and failing to consider the possibility of alternative employment during the period of dismissal. As such, the impugned order is liable to be set aside.

17. Heard the Learned counsel in both the Writ petitions and perused the record.

18. At this juncture, the Learned counsel for the BSRTC relied on the judgments of the Hon’ble Supreme Court reported in:

1. U.P. State Brassware Corpn. Ltd. and another Vs. Uday Narain Pandey : (2006) 1 SCC 479 :

2. Divisional Controller Gujarat SRTC Vs. Kadarbhai J. Suthar : (2007) 10 SCC 561 : 2007(2) PLJR 213 (SC) and

3. (Madhya Pradesh Administration Vs. Tribhuban : 2007) 9 SCC 748 ; 2007(3) PLJR SC 51.

19. In **U.P. State Brassware Corpn. Ltd. and another Vs. Uday Narain Pandey: (2006) 1 SCC 479**, the Hon’ble Supreme Court has held as follows:



“61. It is not in dispute that the respondent did not raise any plea in his written statement that he was not gainfully employed during the said period. It is now well settled by various decisions of this Court that although earlier this Court insisted that it was for the employer to raise the aforementioned plea but having regard to the provisions of Section 106 of the Evidence Act or the provisions analogous thereto, such a plea should be raised by the workman.

62. In *Kendriya Vidyalaya Sangathan* [(2005) 2 SCC 363 : 2005 SCC (L&S) 270] this Court held: (SCC p. 366, para 16)

“When the question of determining the entitlement of a person to back wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim. In the instant case, the respondent had neither pleaded nor placed any material in that regard”

63. The only question is



whether the respondent would be entitled to back wages from the date of his termination of service till the aforementioned date. The decision to close down the establishment by the State of Uttar Pradesh like other public sector organisations had been taken as far back as on 17-11-1990 wherefor a GO had been issued. It had further been averred, which has been noticed hereinbefore, that the said GO has substantially been implemented. In this view of the matter, we are of the opinion that interest of justice would be subserved if the back wages payable to the respondent for the period 1-4-1987 to 26-3-1993 is confined to 25% of the total back wages payable during the said period.

64. The judgments and orders of the Labour Court and the High Court are set aside and it is directed that the respondent herein shall be entitled to 25% back wages of the total back wages payable during the aforesaid period and compensation payable in terms of Section 6-N of the U.P. Industrial Disputes Act. If, however, any sum has been paid by the appellant



herein, the same shall be adjusted from the amount payable in terms of this judgment.”

20. In **Divisional Controller Gujarat SRTC Vs. Kadarbhai J. Suthar : (2007) 10 SCC 561**, the Hon’ble Supreme Court has held as follows:

“2. The respondent (hereinafter referred to as “the workman”) was employed with the appellant Gujarat State Road Transport Corporation (hereinafter referred to as “the Corporation”) as a driver. While driving a corporation vehicle the respondent caused an accident as a result of which a child aged about 8 years died. Criminal proceedings were initiated against the workman but he was acquitted. A claim petition claiming compensation was filed under the Motor Vehicles Act, 1988 (in short “the MV Act”) and the Corporation paid compensation of about Rs 45,000 to the claimants. Departmental proceedings were initiated against the workman and he was found guilty. His negligence of duty as well as charge of misconduct were held to have been proved. Accordingly, he was



dismissed from service. A reference was made under Section 10(1)(c) of the Industrial Disputes Act, 1947 (in short "the Act") to the Labour Court, Ahmedabad. The Presiding Officer came to hold that since the workman was acquitted in the criminal case, a contrary view in the departmental proceedings was not permissible. Accordingly, reinstatement was directed without back wages by order dated 11-5-1990. Immediately thereafter the respondent workman was reinstated and the award of the Labour Court was not challenged by the Corporation. Subsequently, in November 1991, the workman filed writ petition before the High Court, questioning correctness of the refusal of back wages. By order dated 21-9-2000 writ petition was allowed by a Learned Single Judge who directed payment of full back wages from the due date till the date from which he was reinstated along with running interest @ 6% p.a. The Corporation filed a letters patent appeal before the High Court. By the impugned judgment the Division Bench reduced back wages to 75% instead of full back wages as directed by the Learned Single Judge.



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5. The orders of both the Learned Single Judge and the Division Bench suffer from several infirmities. First and foremost, mere acquittal in a criminal case does not have the effect of nullifying the decision taken in the departmental proceedings. They operate in different areas of considerations. This position was recently highlighted by a three-Judge Bench of this Court in *NOIDA Entrepreneurs' Assn. v. NOIDA* [(2007) 10 SCC 385 : (2007) 2 Scale 131] .

6. When fixing the back wages several factors need to be noted. It is a well-settled position in law that on the finding that termination was not lawful there is no automatic entitlement to full back wages. In *Hindustan Tin Works (P) Ltd. v. Employees* [(1979) 2 SCC 80 : 1979 SCC (L&S) 53] a three-Judge Bench of this Court laid down : (SCC p. 86, para 11)

“11. In the very nature of things there cannot be a straitjacket formula for awarding relief of back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the



party objecting to it must establish the circumstances necessitating departure. At that stage the Tribunal will exercise its discretion keeping in view all the relevant circumstances. But the discretion must be exercised in a judicial and judicious manner. The reason for exercising discretion must be cogent and convincing and must appear on the face of the record. When it is said that something is to be done within the discretion of the authority, that something is to be done according to the rules of reason and justice, according to law and not humour. It is not to be arbitrary, vague and fanciful but legal and regular (see *Susannah Sharpe v. Wakefield* [1891 AC 173 : (1886-90) All ER Rep 651 : 60 LJMC 73 : 64 LT 180 : 55 JP 197 : 39 WR 561 : 7 TLR 389] , AC at p. 179).

8. Additionally, the Labour Court had taken note of the previous acts of misconduct by the workman while denying the back wages. That aspect was completely lost sight of by the Learned Single Judge as well as the Division Bench. Merely because the Corporation did not challenge the order of reinstatement that does not lead to a conclusion that it accepted any illegality in the departmental



proceedings. As a matter of fact, the Labour Court clearly noted that the workman admitted the legality and propriety of the inquiry held against him.

9. In the aforesaid circumstances, the inevitable conclusion is that the direction of payment of back wages cannot be sustained. The orders passed by the Learned Single Judge as partly modified by the Division Bench stand set aside to the aforesaid extent.”

21. In (Madhya Pradesh Administration Vs. Tribhuban : (2007) 9 SCC 748, the Hon’ble Supreme Court has held as follows:

“12. In this case, the Industrial Court exercised its discretionary jurisdiction under Section 11-A of the Industrial Disputes Act. It merely directed the amount of compensation to which the respondent was entitled had the provisions of Section 25-F been complied with should be sufficient to meet the ends of justice. We are not suggesting that the High Court could not interfere with the said order, but the discretionary



jurisdiction exercised by the Industrial Court, in our opinion, should have been taken into consideration for determination of the question as to what relief should be granted in the peculiar facts and circumstances of this case. Each case is required to be dealt with in the fact situation obtaining therein.

13. We, therefore, are of the opinion that keeping in view the peculiar facts and circumstances of this case and particularly in view of the fact that the High Court had directed reinstatement with full back wages, we are of the opinion that interest of justice would be subserved if the appellant herein be directed to pay a sum of Rs 75,000 by way of compensation to the respondent. This appeal is allowed to the aforementioned extent.”

22. This Court is of the considered view that the above ratio of Hon’ble Apex Court passed in aforesaid cases squarely applies to the present case in hand.

23. The Hon’ble Apex Court in ***Kendriya Vidyalaya Sangathan and Anr. Vs. S.C***



Sharma [(2005) 2 SCC 363 : 2005 SCC (L&S) 270] clearly held that “When the question of determining the entitlement of a person to back wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim. In the instant case, the respondent had neither pleaded nor placed any material in that regard”

24. In this case also the respondent BSRTC has taken a plea that Labour Court granted reinstatement with full back wages and consequential benefits without applying judicial mind, disregarding the principle of “no work, no wage” and failing to consider the possibility of alternative employment during the period of dismissal. As such, the impugned order is liable to be set aside.

25. The employee Siya Singh respondent No. 3 / petitioner of CWJC No. 17753 of 2018 has not shown that he was sitting idle for so many



years. Further he has not raised his grievance for the same so there is no merit in the case of petitioner of CWJC No. 17753 of 2018

26. In view of the above ratio CWJC No. 2592 of 2014 is allowed

27. Similarly, CWJC No. 17753 of 2018 is dismissed as devoid of merits.

28. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2025
Transmission Date	

