

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.204 of 2012

In
Civil Writ Jurisdiction Case No. 8989 of 2006

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1. The State of Bihar through the Chief Secretary, having his office in Old Secretariat, P.S. Sachivalaya, District- Patna
 2. The Secretary, Road Construction Department having his office in Vishwesharaiya Bhawan, P.S. Shastrinagar, District- Patna
 3. The Finance Commissioner, Finance Department having his office in Old Secretariat, P.S. Sachivalaya, District- Patna
 4. The Joint Secretary, Road Construction Department having his office in Vishwesharaiya Bhawan, P.S. Shastrinagar, District- Patna
 5. The Deputy Secretary, Road Construction Department having his office in Vishwesharaiya Bhawan, P.S. Shastrinagar, District- Patna
 6. The Under Secretary, Road Construction Department having his office in Vishwesharaiya Bhawan, P.S. Shastrinagar, District- Patna
 7. The Treasury Officer, Secretary Treasury Sichai Bhawan, Patna
- Respondents--- Petitioners

Versus

1. Bharti Hari Singh, son of Late Ganga Prasad Singh, resident of Baba Chowk, Kesari Nagar, P.S. Patliputra, District- Patna
----- Petitioner/ Respondent
2. The Accountant General (A& E), Bihar, Virchand Patel Path, Patna
----- Respondent no.8---- Respondent

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar
For the Respondent/s : Mr. AC to SC-3
Mr. Ramkinkar Chaubey

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

17 29-07-2015 Heard learned AC to SC-3, Sri Rupak Kumar,

learned counsel for Respondent no.1 and Sri Ramkinkar

Chaubey, learned counsel for Respondent no.2.

The present review petition was filed with a prayer to
review/ recall of the order dated 18.03.2011 passed by this
Court in C.W.J.C.No. 8989 of 2006. The writ petition was



allowed in absence of any counter affidavit. It was allowed on the basis of the fact disclosed in the writ petition regarding non-pendency of any departmental proceeding or any judicial proceeding against the petitioner and, as such, direction was given to pay 100 % pension as well as entire gratuity amount to the petitioner. This Court had further directed to pay the remaining amount of gratuity with admissible interest.

After the order of the writ court, the present review petition was filed for review/recall of the order of the writ court on the plea that the writ petitioner had suppressed the fact that a criminal case was pending against him. Only on this very ground, a prayer has been made for recall the order of the writ court. In the writ petition, a specific averment was made that against the petitioner, neither any departmental proceeding nor any judicial proceeding was pending.

In this case, a counter affidavit has also been filed by Respondent no.1 and it has been reiterated that neither any departmental proceeding nor any judicial proceeding was pending against the petitioner/Respondent no.1. It has been accepted that the petitioner was named as accused in an F.I.R., which was lodged long back, but in the said case no police report was submitted and, as such, in absence of any police

report, no order of cognizance was passed by the court below. He submits that since no judicial proceeding was pending against him, merely on the ground that in the F.I.R. the petitioner was made an accused in absence of any proceeding before the court of competent jurisdiction or in absence of any report of the police, there is no question for initiation of judicial proceeding. The fact disclosed in the counter affidavit filed on behalf of Respondent no.1 has not been disputed by the petitioner/State. Meaning thereby that it was not a case of suppression of fact and, as such, there is no question for recall/review of earlier order.

The review petition stands dismissed.

(Rakesh Kumar, J)

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