

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1083 of 2014

IN

Civil Writ Jurisdiction Case No. 11193 of 2007

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Praveen Dayal, son of late Sridhar Dayal, Resident of Mohalla - Jagat Narain Lal Road, Post Office Kadam Kuan, P.S. Kadam Kuan, District Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary Department of Industry Bihar, Patna.
3. The Deputy Secretary Department Industry Bihar Patna.
4. The Director Department of Industry Govt. of Bihar, Patna.
5. The Industrial Commissioner Bihar Patna.
6. The Director the Handloom and Silk Department Bihar Patna.
7. The Registrar Department of Handloom and Silk Bihar Patna.
8. The Assistant Registrar Sahyog Sammities Handloom Bihar Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Dayal, Advocate

For the Respondent/s : Mr. Purnendu Singh, G.P.27

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-07-2015

Interlocutory Application No.5563 of 2014

This application is filed, with a prayer to condone the delay of about two years in filing the appeal.

Heard learned counsel for the appellant and the learned counsel for the respondents.

The delay is, no doubt, enormous. The fact, however, remains that the writ petition was decided when there was no representation for the petitioner, and it is stated that the counsel did not even inform the petitioner about the result. In the application, it is

stated that it is only when the petitioner approached this Court and verified the matter; he came to know about the result in the writ petition.

Having regard to the facts and circumstances, we are satisfied with the reasons mentioned for delay. The application is, accordingly, ordered.

LPA No.1083 of 2014

This appeal is preferred against the order dated 16.08.2012 passed by the learned Single Judge in CWJC No.11193 of 2007.

Heard learned counsel for the appellant and the learned counsel for the respondents.

The appellant joined the Government service in the year 1983. On completion of 10 years of service, he was extended the benefit of 1st time bound promotion, in the form of enhanced wages. However, an order dated 08.02.2007 was passed cancelling the time bound promotion and directing recovery of the emoluments paid to the appellant on account of the promotion. The same was challenged in the writ petition. The learned Single Judge took the view that the appellant was not qualified to be promoted in the year 1993 since he did not pass the Accounts test, and in that view of the matter, no exception can be taken to withdrawal of the promotion. However, the

direction as regards recovery of the amount was set aside.

We are in total agreement with the view taken by the learned Single Judge. The reason is that the concerned Rule was amended, way back in the year 1982, stipulating pass in Accounts test as a condition precedent for effecting the time bound promotion. Even by the time, the writ petition was filed, let alone in the year 1993, the appellant did not acquire the Accounts test. The learned Single Judge followed the judgment of this Court in *Maheshwar Prasad Singh Vs. The State of Bihar & Ors*¹. Learned counsel for the appellant is not able to point out any other provision of law or decided case.

We, therefore, dismiss the appeal. It is, however, directed that in case, the appellant has cleared the Accounts test and acquired the eligibility, his case shall be considered for time bound promotion in accordance with the Rules.

Interlocutory application, if any, shall stand disposed of.
There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Anjana Mishra, J)

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¹ 2000 (4) PLJR 262