

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.85 of 2006

IN

Letters Patent Appeal No. 1329 of 2005

In

Civil Writ Jurisdiction Case No. 13654 of 2000

With

Interlocutory Application No. 3028 of 2014

In

Civil Review No.85 of 2006

=====

Ram Prasad Yadav, son of late Hari Prasad Yadav, resident of Champanagar,
Maskan Bariarpur Lane, Ward No. 28, PS Nathnagar, District Bhagalpur

.... Appellant/ Petitioner

Versus

1. The Administrator, Bhagalpur Municipal Corporation, Bhagalpur
2. The Commissioner, Bhagalpur Division, Bhagalpur
3. The Secretary, Nagar Vikash Bibhag, Bihar, Patna
4. The State of Bihar

.... Respondents/Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Bishwa Bibhuti Kumar Singh

AC to PAAG

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07 -01-2015

I A No. 3028 of 2008

This application under Section 5 of the Limitation Act is
filed with a prayer to condone the delay of 3 months and 16 days in
preferring the present Civil Review application.

We are satisfied with the reasons assigned for

condonation of the delay in preferring the review application. The delay is condoned.

I A No. 3028 of 2008 stands disposed of.

Civil Review No. 85 of 2006

This application is filed with a prayer to review the order dated 30.11.2005 passed by a Division Bench of this Court in Letters Patent Appeal No. 1329 of 2005. The facts, that gave rise to the filing of this review petition are as under.

The petitioner was an employee in the Bhagalpur Municipality which was later on upgraded as Municipal Corporation. He retired from service on 1.2.1986 and he was extended the retirement benefits, in accordance with the law, prevailing at that time.

The Patna Municipal Corporation Officers and Servants Pension Rules, 1986 (hereinafter referred to as the Rules) were extended to the Bhagalpur Municipal Corporation in the year 1988. The petitioner filed CWJC No. 13654 of 2000 complaining that the benefit of Pension Rules was not extended to him. Similar writ petition, being CWJC No. 13632 of 2000 was filed by one Sri Jagdish Hari, who retired from service on 31.1.1986. They pleaded that, according to Rule (3) of the Rules came into effect from 1.1.1986 and since they retired from service subsequent to that date, they are entitled to the benefits under the same.

The respondents opposed the writ petitions by taking the plea that the date 1.1.1986 was only in relation to the Patna Municipal Corporation, and it has no relevance to the Bhagalpur Municipal Corporation to which the Rules were extended only in the year 1988.

The learned Single Judge had dismissed the writ petitions through a common order dated 19.12.2002. Aggrieved by

that, the appellant filed LPA No. 1329 of 2005. A Division Bench of this Court dismissed the appeal on 30.11.2005. The petitioner seeks review of the same.

Heard Mr. Purushottam Kumar Jha, learned counsel for the petitioner and Mr. Bishwa Bibhuti Kumar Singh, learned counsel for the respondents.

This is not a case, where the points urged by the petitioner were not taken into account by the Division Bench that dismissed the Letters Patent Appeal. Thorough discussion was undertaken while dismissing the appeal. It is fairly well settled that review is not a further appeal, and it is only when the concerned party establishes that an important fact missed the consideration of the Court, or that a provision of law or a binding precedent was not taken note of, that the possibility of reviewing an order would exist. No such grounds are pleaded.

Even otherwise, the main plank of argument is on the basis of the effective date mentioned in Rule (3) of the Rules. It is no doubt true that in Rule (3) of the Rules as they were framed for the Patna Municipal Corporation, the effective date is mentioned as 1.1.1986 though the Rules were published on 20th March, 1987. An employee of Patna Municipal Corporation can certainly claim the benefits with effect from 1.1.1986.

It is almost, a matter of convenience, that the Rules framed for Patna Municipal Corporation were adopted by the Bhagalpur Municipal Corporation. Although the text of the Rules may be the same, the Rules became applicable to the Bhagalpur Municipal Corporation, only from the date on which they were adopted. The date mentioned in Rule 3 does not apply to the Bhagalpur Municipal Corporation. It is not in dispute that the Rules were adopted by the

Bhagalpur Municipal Corporation, in the year 1988.

We do not find any basis to review the order dated 30.11.2005 passed in LPA No. 1329 of 2005. The review petition is dismissed.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(I. A. Ansari, J)

mrl

A F R

U			
---	--	--	--