

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1365 of 2012

IN

Civil Writ Jurisdiction Case No. 12516 of 2011

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Dilip Kumar, son of Late Dhiren Kumar, resident of village and Post - Korha, Police Station - Korha, District – Katihar. Now retired and was posted as Assistant Engineer, Rural Division, Road Construction Department.

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department having his office at Vishweshsaraia Bhavan, Police Station - Shastri Nagar, District - Patna

2. The Engineer-In-Chief, Road Construction Department having his office at Vishweshsaraia Bhavan, Police Station - Shastri Nagar, District - Patna

3. The Finance Commissioner, Government of Bihar having his office at Old Secretariat, Police Station - Sachivalaya, District – Patna.

.... Respondents

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Appearance :

For the Appellant : Mr. Vikas Mohan, Advocate

For the Respondents : Mr. Mayank Rukhaiyar, AC to GA-1.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 18-08-2015

Supplementary counter affidavit has been filed today by the Road Construction Department stating that the file of the appellant had been sent to the Finance Department to regularize various periods of service of the petitioner in between 1992 and 1996. The same has been returned with a lot of queries. Petitioner retired in the year 2010. When the retirement dues were to be paid, it was pointed out that for various periods of service in between 1992 and 1996, petitioner was allegedly absent and being moved from one department to another, which periods had to be regularized, and in absence thereof, the retiral dues and others were not being fully

settled.

He filed writ petition which was dismissed by the learned Single Judge on the ground of delay. The onus, first, here is on the Government, to show why there was delay in settlement of dues of the said periods. We are dealing with welfare state where there is a failure on the part of the government to pay the dues and settle them and the employer cannot be penalized for the inability of the Government to be a model employer.

In view of the counter affidavit filed by the Road Construction Department, there appears to be serious discrepancies which are to be sorted out in an inter-departmental meeting i.e. the three departments i.e. Road Construction Department, Rural Works Department and Finance Department. The matter being old, if the court permits exchange of correspondences from one department to another, it would take at least another decade for the problem to be sorted out. The appellant having already retired five years back.

Having considered the matter, we therefore, direct that the Secretaries or their nominees of the three respective Departments would meet in one office and seek all information i.e. required from each other department. They would meet at regular weekly intervals and upon notice the petitioner may also be required to be present. If the petitioner wants settlement of his dues, it would be in his interest to cooperate in these matters. The first of such meeting would be in the office of the Under-Secretary (Management Cell) in the Department of Finance, Government of Bihar on 31st August, 2015, where appellant would also be present. Officers of Finance, Road



Construction and Rural Works departments would be present.

The process of settlement of issues and dues would be taken up together. In presence of all, any deficiency discussed be sorted out by either of the departments, and the meeting would be convened at least once a week. In case, the issues are not finalized within two months, this Court would take a serious view of the matter.

With these observations, this appeal stands disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

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