

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9040 of 2013

1. Siyaram Chaudhary S/O Late Ram Bilash Chaudhary Resident Of Village-
Hanuman Nagar Milki Anaith, C/O Bhola Singh, P.S- Nawada, District- Bhojpur.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Irrigation Department,
Govt. Of Bihar, Patna.
2. The Under Secretary, Water Resources Department Govt. Of Bihar, Patna.
3. The Chief Engineer (Mechanical Gandak Project) Null Water Resources
Department, Govt. Of Bihar, Patna.
4. The Suprintending Engineer (Mechanical Gandak Project) Muzaffarpur, District-
Muzaffarpur.
5. The Executive Engineer, (Field Mechanical Division) Water Resources
Department, Gandak Project Scheme Milmiki Nagar, West Champaran, Bettiah.
6. The Accountan General, Bihar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ran Subhash Singh
For the State : Mr. Amaresh Kumar Sinha
For the Accountant General: Mr. Kumal Priya

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 13-05-2015

13.05.2015

I. A. No. 3996 of 2015 is for substitution of the
petitioner by the wife, namely, Shivrato Devi.

Interlocutory Application is allowed.

On statement made by the counsel for the
appellant in L.P.A. No. 324 of 2014, the learned Division
Bench vide Order, dated 15.12.2014 remanded the
matter to consider the writ application afresh by taking
into account the supplementary affidavit, which was filed
in the writ application. The Court opines that the counsel
was not honest and truthful in taking such a position

before the Division Bench, because a careful reading of the Order, dated 13.11.2013 itself indicates that ***“instead of meeting the contention of the State, he is now talking of what he is entitled to by way of gratuity, which was not the issue raised in the main writ application”***.

The above observation of the Court emerges from the pleadings in the supplementary affidavit of the petitioner. The question of amount of payment of gratuity etc. was raised for the first time in the supplementary affidavit. If the supplementary affidavit was not taken into account where was the occasion for the Court to observe in terms of what has been quoted from the Order passed in the writ. Therefore, the matter does not require reconsideration over and above what was adjudicated on 13.11.2013. Petitioner's husband was rightly given the pay-scale, which was available to a post of Fitter Grade-II, as would be evident from the pleadings of the State and other respondents in this regard.

Writ application stands dismissed.

(Ajay Kumar Tripathi, J.)

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