

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.568 of 2015

IN

Civil Writ Jurisdiction Case No. 2314 of 2015

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Faiyaz Ahmad, Son of Late Mukhtar Ahmad, Resident of Mohalla- Kalali Bagan,
P.S. Dhanbad Town, District- Dhanbad (Jharkhand).

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Government of Bihar Patna.
2. The Director, General of Police Bihar, Patna.
3. The Inspector, General of Police Bihar, Darbhanga.
4. The Deputy Inspector General of Police Purnea.
5. The Superintendent of Police, Kishanganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anisur Rahman, Advocate

For the Respondent/s : Mr. Amish Kumar, AC to AAG-8

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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: 23-08-2016

The present intra-court appeal is directed against

the order dismissing the writ in limine under order dated 06.02.2015,

passed in C.W.J.C. No. 2314 of 2014 (Faiyaz Ahmad Vs. The State of

Bihar and others).

By the writ petition the aforesaid writ petitioner-

appellant had claimed arrears of salary for the period 2002-03. The

Writ Court dismissed the writ petition on grounds of delay and laches

in spite of the fact that petitioner-appellant had pleaded that he had

been seeking payment thereof and having lost patience was moving



the court. In our view, it was not an ordinary case of employer and employee, but it was a case where Government was the employer. At least the Government ought to have been asked whether payment was made or not, and if not why, because Government is a model employer and cannot shirk its responsibility and take shelter of legalistic approach to defeat the legitimate claim of its employees.

It appears, the petitioner-appellant was posted at Kishanganj at the relevant time. He was ordered to be transferred to Dhanbad. He did not join there, instead he had been referred to medical treatment at Patna Medical College and Hospital, Patna. Subsequently, upon cadre bifurcation pursuant to bifurcation of State of Bihar he was allotted Bihar cadre and he was posted at Darbhanga range and accordingly, joined at Darbhanga, as he was allowed to join there. It is this interregnum period that he claims his salary which he was not paid i.e. from May 2002 to April, 2003. In these appellate proceedings the appellant has brought on record by supplementary affidavit that the State Government in the Department of Home (Police) has requested the Director General of Police, Bihar, Patna to enquire into the matter and if payment is due, make payment. We can only reiterate the same. We, accordingly, direct the Director General of Police, Bihar, Patna to let the matter be enquired into and if it is found that the payment is due to the petitioner-appellant for the period

aforesaid, he would ensure that within three months from today, payment is made to the petitioner-appellant, but if it is found that payment is not due, speaking order in that regard would be duly communicated to him.

With this observation, the appeal stands disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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