

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.842 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 8325 of 2006
Along with
Interlocutory Application No.3565 of 2015**

- =====
1. The Union of India, through Home Secretary, North Block,- New Delhi.
 2. The Ministry of Home Affairs, through its Secretary, North Block, New Delhi.
 3. The Director General, Border Security Force, New Delhi.
 4. The Commandant, 73 Battalion, Border Security Force, Dantewada, Gujrat.
 5. Accounts Officer, Pension III Section- Pay and Accounts Division, Border Security Force, New Delhi.

.... Respondents-Appellant/s

Versus

Satrughan Singh, son of Sri Renu Singh, resident of Village - Lavapur, P.O. & P.S.- Mahnar, District-Vaishali.

.... Petitioner-Respondent/s

=====

Appearance :

For the Appellants : Mr. S. D. Sanjay, Addl. S.G.
Mr. Rajesh Kumar Verma, C.G.C.
For the Respondents : None

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 07-09-2016

The challenge in the present Letters Patent Appeal is to an order dated 11th of May, 2011 whereby, the appellants were directed to pay undisputed amount of retiral benefits within one month, if not already paid, and if there is any dispute, the same shall be settled within a period of three months.

2. As per the writ applicant, he was made to retire from service on 20th of May, 1980 on the recommendation of the Medical

Board as the writ applicant-respondent herein has lost his eye sight. The applicant claimed gratuity and other retiral benefits in the writ application filed after more than 23 years.

3. The stand of the appellants in the counter affidavit is that the writ applicant joined as Constable on 28th January, 1967 and was invalidated out from service on medical ground. The writ applicant did not submit any representation against the report of the Medical Board and thereafter, the applicant was boarded out from service on 15th October, 1980. He has been paid invalid pension, relief pension and gratuity. It is after 23 years and 10 months, the applicant started asserting his claim for retiral benefits. It is on the basis of the pleading before the learned Single Bench, the directions were issued on 11th of May, 2011.

4. It may be stated that the appellants earlier filed Letters Patent Appeal No.645 of 2012 which was dismissed for non-compliance of the direction contained in the order dated 19.07.2012. The application for restoration was dismissed on 27th November, 2013. It is thereafter, on 11th of November, 2014, another application filed for restoration was permitted to be withdrawn with liberty to the appellant to come with appropriate application/appeal. It is thereafter, the present Letters Patent Appeal has been filed along with application for condonation of delay.

5. Without going into the question of maintainability of the present Letters Patent Appeal, we find that the direction of the learned Single Bench is in two parts. The first part is that undisputed amount of retiral benefits is to be paid within a period of one month. As per the counter affidavit, such amount stands paid. However, in respect of other claim on account of disability, the same has not been considered in an objective manner, at least, none was brought to our notice.

6. Consequently, we do not find any error in the order passed by the learned Single Bench. The present Letters Patent Appeal is dismissed.

7. However, another three months time is granted to the appellants to pass an order considering the claim of the writ applicant for the grant of disability pension and other retiral dues in the correct scale of pay.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F.R.
CAV DATE	N.A.
Uploading Date	14.09.2016
Transmission Date	