

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1295 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 7579 of 2012
Along with
Interlocutory Application No.5625 of 2015

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1. The State of Bihar represented through the Principal Secretary, Higher Education, Human Resources Department, Govt. of Bihar.
 2. The Director (Administration) Secondary Education, Government of Bihar, Patna.
 3. The special Director, Secondary Education, Government of Bihar, Patna.
 4. The Principal of Madarsa Inslamia, Shamsul Hoda , Patna.

.... Respondents - Appellants

Versus

1. Md. Abid Hussain, S/o Late Md. Hanif Khan, Resident of Mohalla- Afzalpur, P.S Perbohore, District-Patna.

.... Petitioner-Respondent 1st Set.

2. The Accountant General Bihar, Birchand, Patel Path, Patna.

.... Respondent- Respondent 2nd Set.

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Appearance :

For the Appellants : Mr. Anjani Kumar, A.A.G.-6

For the Respondent No.1 : Mr. Md. Anisur Rahman, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 08-04-2016

Re.: Interlocutory Application No.5625 of 2015

The application is for condonation of delay of 1 year and 195 days in filing of the appeal.

For the reasons mentioned in the application, we find that sufficient cause is disclosed for condonation of delay. Consequently, the delay of 1 year and 195 days in filing of the appeal is condoned.

Interlocutory Application stands disposed of accordingly.

Re.: Letters Patent Appeal No.1295 of 2015

The order dated 5th of July, 2013 is subject matter of challenge in the present Letters Patent Appeal passed by the learned Single Judge. By the aforesaid order, the order of recovery from the retiral dues payable to the writ applicant has been set aside with the order that the consequential benefits would follow.

The question as to whether there could be recovery from the retiral benefits has been examined by the Hon'ble Supreme Court in a judgment in the case of State of Punjab and others Versus Rafiq Masih (White Washer) and others, (2015) 4 SCC 334. It has been held that monetary benefits given by mistake to the employees in excess of their entitlement cannot be recovered by the employer after retirement.

In view of the aforesaid decision, we do not find any error in the order of the learned Single Bench which may warrant interference in the present intra-court appeal.

The Letters Patent Appeal thus stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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