

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.280 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 8989 of 1998

- =====
1. The Secretary, Animal Husbandry Department, Government of Bihar, New Secretariat, Patna
 2. The Deputy Secretary, Animal Husbandry Department, Government of Bihar, New Secretariat, Patna
 3. The Director, Animal Husbandry Department, Government of Bihar, New Secretariat, Patna.

.... Appellants/Respondents

Versus

1. Dr. Pawan Kishore Prasad Sinha, Son of Shri Parmeshwari Prasad Narayan Singh, Resident of Mohalla Pirmohani (1st Lane), P.S. Gandhi Maidan, District- Patna.
2. Dr. Arun Chandra Dutta, Son of late Amullya Chandra Dutta, Resident of Adarsh Colony, West Patel Nagar, P.S. Shastrinagar, District- Patna.
3. Dr. Ambika Prasad Singh, Son of late Shri Mathura Singh, Resident of Gayatri Nagar, Rukunpura, P.S. Danapur, District- Patna.
4. Dr. Rang Nath Pandey, son of late Sidh Nath Pandey, resident of Indirapuri Colony, P.S.- Shashtrinagar, District- Patna
5. Dr. Maheshwar Prasad Singh, son of late Shri Mohan Singh, resident of Narayan Vihar Colony, Kumhrar, P.S. Agamkuan, District- Patna.
6. Dr. Chandrashekhar Prasad, son of late Dukh Haran Prasad, resident of Mohalla Langartoli (Nala Road), P.S. Kadamkuan, Patna
7. Dr. Adi Nath Mukhipadhyay, son of late Dr. Danabandhu Mukherjee, r/o Tetulmari Railway Station Road, P.S. Tetulmari, District- Dhanbad
8. Dr. Dinanath Pandit, son of late Dr. Guru Prasad, resident of Village- Chhoti Pahari, P.S. Agamkuan, District- Patna.
9. Dr. Akhileshwar Prasad, son of late Kameshwar Prasad, resident of Opp. Tiwari Bechar & Co., P.S. Kankarbagh, District- Patna
10. Dr. Abinas Kumar Sinha, son of late Ramanand Sinha, resident of Nala Road, P.S. Kadamkuan, District -Patna.
11. Dr. Bed Barat Sinha, son of late Ragho Sharan Singh, resident of Patel Path Sheikhpura, P.S. Shastrinagar, Patna.
12. Dr. Rambaran Singh, son of late Yadunandan Singh, resident of Raja Bazar (New Chaudhary Hotel Lane), P.S. Shashtrinagar, District-Patna.
13. Dr. K.N. Barai, son of late Punit Lal Barai, resident of Bagh Dulha Chawk, Naya Tola, Hajipur, P.S. Hajipru, District- Vaishali
14. Dr. Pashupati Nath Verma, son of late Shri Umeshwar Nath Verma, resident of Sector D/A House No.B-1, P.S. Lohianagar (Kankarbagh), District- Patna.
15. Dr. Vishwanath Prasad Verma, son of late Shri Umeshwarnath Verma, resident of I.A.S Colony, west of Canal Bailey Road, Near Krishna Niketan P.S. Danapur, District- Patna
16. Dr. Md. Zaffrul Alam, son of late Md. Abdul Aziz, resident of Ismat Mansion Samanpura, P.S. Shashtrinagar, District-Patna.
17. Dr. Bishnu Kumar Singh, son of late Awadhesh Singh, resident of Suman Sadan, Nawada, Arrah in front of P.O. Arrah.
18. Dr. Rishideo Pandey, son of late Ram Bilash Pandey, resident of Vardan Radha

Krishna Mandir Marg, Shivpuri, P.S. Rajbanshi Nagar, District-Patna.

19. Dr. Nizamur Rahman, son of late Manjuri Haque, resident of New Market Colony Phase II, Station Road, P.S. Phulwari Sahrif, District-Patna
20. Dr. Mallick Md. Shaukat Ali, son of late Abdul Majid, resident of Bata Gali Shabjibagh, P.S. Pirbahore, District- Patna
21. Dr. Chitranjan Kumar Sinha, son of late Naresh Kumar Singh, Advocate, resident of Simari Sadan, Jagat Narain Raod, P.S. Kadamkuan, District- Patna
22. Dr. Ganga Dayal Singh, son of late Shiv Sewak Prasad Singh, resident of Mohalla Yarpur Yogia Tola, P.S. Gardanibagh, District-Patna.
23. Dr. Bireshwari Prasad Mishra, son of late Shri A.P. Mishra, C/o Shri Lalit Narayan Singh (Advocate), Mohalla New Alkapuri, P.O. Anishabad, P.S. Gardanibagh, District- Patna.

.....Respondents/Petitioners-1st Set

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna
3. The Additional Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna.
4. The Deputy Secretary, Department of Finance, Government of Bihar, Main Secretariat, Patna
5. The Accountant General, Bihar, Patna.

....Respondents/ Respondents-2nd Set

=====

Appearance :

For the State (Appellants) : Mr. Sanjay Pandey, G.P. 21
Mr. Vivek Anand Amritesh, A.C. to G.P. 21

For the Respondents :

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 26-04-2016

I.A. No. 1229 of 2015

The application is for condonation of delay of 147 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 147 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 1229 of 2015 is allowed and delay of 147 days in filing the Letters Patent Appeal is condoned.

L.P.A. No. 280 of 2015

The State is in appeal aggrieved against an order passed by the learned Single Bench of this Court on 13th of March, 2014 in C.W.J.C. No. 8989 of 1998, whereby the recovery from the retired writ petitioners was found to be unjustified on the ground that impugned order has been passed without following the principles of natural justice.

2. All the writ petitioners are the retired officials who are given benefit of 2nd Time Bound Promotion. Stand of the State is that benefit of the 2nd Time Bound Promotion was wrongly given. It is pointed out that while granting 2nd Time Bound Promotion, there was a condition that if there is any error on account of calculation, the State will be competent to recover the amount paid in excess.

3. The issue has been examined by the Hon'ble Supreme Court in the case reported as State of Punjab and others vs. Rafiq Masih (White Washer) and others (2015) 4 SCC 334. In the aforesaid case, it has been held that the recovery of amount paid in excess to the recipient cannot be recovered as it causes hardship to the employee. Present is a case where the employees have superannuated and,

therefore, any recovery process initiated against them would be causing hardship.

4. In view of the aforesaid judgment, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Anjani

U			
---	--	--	--