

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.142 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 15072 of 2011

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Tapan Kumar Chatterjee, Son of Late Ganesh Chandra Chatterjee, resident of Mohalla:-
Nageshwar Colony, House No. 28, East Boring Road, Police Station - Buddha Colony,
District:- Patna.

.... Appellant

Versus

1. The State of Bihar through the Secretary and Commissioner, Department of Human Resources Development, Higher Education , Old Secretariat , Patna.
2. The Chancellor, Patna University, Raj Bhawan, Patna.
3. The Vice Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.

.... Respondents

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Appearance :

For the Appellant : Mr. Dhaneshwar Prasad Gupta, Advocate.

For the Respondents : Mr.

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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: 01-04-2016

I.A. No. 582 of 2015

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

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

3. Consequently, Interlocutory Application No. 582 of 2015 is allowed and delay of four days in filing the Letters Patent Appeal is condoned.

L.P.A. No. 142 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 21st of August, 2014 in C.W.J.C. No. 15072 of 2011, whereby the appellant has been given interest on the retiral benefits at the rate of 5 per cent for the period 28th of February, 2007 to 1st of August, 2010.

2. The grievance of the appellant is that he is entitled to interest from the day his

writ application was allowed on 27th of January, 1998, whereas the learned Single Bench has granted interest after the decision of the Letters Patent Appeal on 27th of February, 2007.

3. We do not find any merit in the present Letters Patent Appeal. The appellant was holding the post of Reader in the Department of Geology. He resigned from service on 16th of November, 1994, which resignation was accepted on 19th of June, 1995 but with effect from 1st of July, 1994. The appellant claimed pension and retiral benefits, which the University declined for the reason that resignation from service amounts to forfeiture of past service. However, the writ application was allowed holding that the appellant is entitled to retrial benefits. Subsequently the Letters Patent Appeal was dismissed.

4. The issue whether after resignation, the appellant would be entitled to pension was not free from difficulty. The right in favour of the appellant crystallized only with the dismissal of Letters Patent Appeal on 27th of February, 2007. Therefore, the learned Single Bench has granted interest on the retiral benefits after the said date.

5. The right to draw retiral benefits after resignation was an issue, which required judicial interpretation. Therefore, the rights of the appellant to get the retiral benefits crytalized with the dismissal of the Letters Patent Appeal only. We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

6. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit
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