

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.718 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 15581 of 2013

Along with

Interlocutory Application No. 3026 of 2015

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Krishna Murti Prasad S/O Late Bhagwat Prasad R/O Village Hemanpur, Ward No. 11, P.O and P.S - Dighwara, District - Saran.

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Urban Development Department, Government of Bihar, Patna
3. The Executive Officer, Notified Area Nagar Panchayat Dighwara, Saran.
4. The Chairman, Nagar Panchayat Dighwara, District - Saran
5. The Accounts Assistant-cum-Head Clerk, Nagar Panchayat Dighwara, District-Saran

.... Respondent/s

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Appearance :

For the Appellant : Mr. Shashi Shekhar Tiwary, Advocate

For the Respondents No. 3 and 4 : Mr. Ranjeet Kumar Pandey, 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: 11-05-2016

Re.: Interlocutory Application No. 3026 of 2015

The application is for condonation of delay of 8 days in filing of the appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 8 days in filing of the appeal is condoned.

Interlocutory Application stands disposed off.

Re.: Letters Patent Appeal No. 718 of 2015

Heard learned counsel for the parties.



The challenge in the present Letters Patent Appeal is to an order dated 11th July, 2014 passed by the learned Single Bench of this Court in CWJC No. 15581 of 2013, whereby the writ application was disposed off with a direction to the disciplinary authority to decide the issue within a period of three months on filing of a show cause by the appellant.

The appellant attained the age of superannuation on 31.01.2013. There are criminal proceedings and departmental proceedings pending against him. The appellant claimed release of pensionary benefits by way of the writ application in which the aforesaid order was passed.

The stand of the respondents is that the appellant did not submit the pension papers in prescribed format, therefore, pension has not been finalized. The appellant makes a reference to a circular dated 23rd August, 2004, attached as Annexure-3 with the supplementary affidavit, which contemplates pending departmental proceeding 90% provisional pension can be released.

A perusal of the record shows that it is the appellant who has not furnished pension papers to process the release of provisional pension.

The submission of the appellant is that he has sent the pension papers by Registered Post cannot be accepted as pension papers are required to be filled meticulously which requires the formalities to be

completed. Therefore, we direct the appellant to fill up the pension papers in the concerned Department by personally visiting the same. As and when the pension papers are completed, the respondents shall release 90% provisional pension within three months thereafter.

The stand of the respondents is that the appellant is not co-operating with the departmental proceeding. If that be so, it is open to the disciplinary authority to conclude the disciplinary proceeding in accordance with law.

Accordingly, the Letters Patent Appeal stands disposed off.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P. Kumar

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