

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 51 of 2013

IN

Civil Writ Jurisdiction Case No 9924 of 2012

- =====
1. The State Of Bihar through Its Engineer-In-Chief-Cum-Special Secretary P.H.E.D., Bihar, Patna
 2. The Chief Engineer, Mechanical, P.H.E. Department New Secretariat, Vishwasariya Bhawan, Bailey Road, Patna
 3. The Superintending Engineer P.H.E.D. Circle, Rahamganj Khan Chowk, Darbhanga, District- Darbhanga

.... Appellant/s

Versus

Chandeshwar Rai S/O Late Bhola Rai R/O Village-Sirsi, P.S.- Nanpur, District-Sitamarhi, Former Head Clerk Of PHED, Darbhanga

.... Respondent/s

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Appearance :

For the Appellant/s : Mr D B Singh, GP 9 with
Mr. Rana Bhupendra Narayan Singh, AC to GP 9

For the Respondent/s : Mr Md Shahnawaz Ali, Advocate

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CORAM: HON'BLE MR JUSTICE HEMANT GUPTA
&
HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE HEMANT GUPTA)

Date: 03-03-2016

The State is in appeal against an order dated 16th of July, 2012 passed by learned Single Judge of this Court whereby there was a direction issued for fixation of pension in accordance with law.

2 The respondent was to superannuate on 31st of July, 2004 as is admitted before the learned Single Judge but he continued in service till 17th of July, 2009. The respondent herein was retired

with retrospective effect though he has been paid salary upto the month of June, 2009.

3 Once the age of superannuation is fixed under the Rules, any act of continuation of an employment beyond superannuation is unauthorized but since, admittedly, the respondent has worked after 31st of July, 2004 till 17th of July, 2009, he is entitled to pay and allowances in view of the work performed but retiral benefits have to be paid as was his salary on 31st of July, 2004.

4 Therefore, the present Letters Patent Appeal is disposed of directing the State to calculate and pay all retiral benefits as are payable to the respondent as on 31st of July, 2004. If any retiral benefits have not been paid, the same shall be calculated and paid to the respondent within next three months from today.

(Hemant Gupta, J)

M.E.H./-

(Navaniti Prasad Singh, J)

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