

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.717 of 2015

Along with

Interlocutory Application No. 3027 of 2015

Arising out of

Miscellaneous Jurisdiction Case No. 843 of 2014

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Nand Kishore Sharma son of Late Banshi Singh, resident of village - Pachahatti,
P.S. Bodh Gaya, District - Gaya

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Bihar, Patna
2. The Director, Agriculture, Bihar, Patna
3. The Director, Administrative Agriculture Department, Bihar, Patna
4. The Deputy Director, Administration, Agriculture Department, Bihar, Patna
5. The Joint Director, Plant Protection, Gaya Division, Gaya
6. The District Agriculture Officer, Gaya District, Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bamdeo Pandey with
Mr. Jitendra Pandey, Advocates.

For the Respondent/s : Mr. Shailesh Kumar, AC to GP-20

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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: 20-07-2016

Re.: Interlocutory Application No. 3027 of 2015

The application is for condonation of delay of 55 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 55 days in filing of the appeal is condoned.

Interlocutory Application stands disposed off.

Re.: Letters Patent Appeal No. 717 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 08.12.2014 whereby, an application for restoration of the writ petition was dismissed for the reason that no plausible explanation has been given for filing restoration application at belated stage.

The appellant filed C.W.J.C. No. 561 of 2009, challenging the order of punishment dated 16th August, 2004 whereby a recovery of Rs. 3,43,378/- was ordered to be made apart from punishment of reduction in rank to the post in the basic pay scale of Plant Protection Supervisor. Such order was disputed by the petitioner in Civil Writ filed on 12th January, 2009. Thus, there is delay of more than four years in invoking writ jurisdiction of this Court against the order passed.

Still further, there was no representation on behalf of the appellant when the case was called on 16th May, 2011 when it was ordered to be posted for hearing on 17th May, 2011. It was on 17th May, 2011, the writ application was dismissed for non-prosecution. But again, the petitioner has taken more than three years in seeking restoration of the petition through an application filed on 21st February, 2014. Even the present Letters Patent Appeal has been preferred with prayer to condone delay of 55 days in filing of the appeal.

It, thus, transpires that there is delay at every stage of proceedings on behalf of the appellant. Firstly, at the time of invoking the writ jurisdiction of this Court, then delay in filing the restoration application and then delay in filing of the present Letters Patent Appeal. Even if, delay in filing of the appeal for restoration application is ignored, the delay of almost five years in disputing the order of punishment makes the writ application suffering from delay and laches.

Consequently, we do not find that any indulgence can be granted to the appellant at this stage to reopen the concluded proceeding in respect of which, the punishment order was passed on 16th August, 2004, i.e., almost 12 years ago.

The Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P.Kumar

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