

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1916 of 2012

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1. The State Of Bihar
 2. Secretary cum Commissioner, Minor Irrigation Department, Government of Bihar, Patna
 3. Additional Secretary, Minor Irrigation Department, Government of Bihar, Patna
 4. Secretary, Water Resources Department, Government of Bihar, Patna
 5. Engineer in Chief, Water Resources Department, Government of Bihar, Patna
 6. Superintending Engineer, Minor Irrigation Circle, Minor Irrigation Department, BADA, Sasaram
 7. Executive Engineer, Minor Irrigation Division, Bhabhua
 8. Deputy Secretary, Minor Irrigation Department, Bihar, Patna

.... Appellant/s

Versus

1. Punya Deo Mahto Son Of Janki Mahto, Junior Engineer (Retd.), Drainage Investigation Division, Bettiah, District - West Champaran Resident Of Mohalla - Belisarai, Near Khandahar Lodge, Police Station - Motihari, District - East Champaran
2. Accountant General (A & E) II Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Sunil Kumar Mandal, SC 24 with
Mr Arjun Prasad, AC to SC 24

For the A G : M/s Rajan Ghoshrave & Madhuresh Pd, Advocates

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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: 01-03-2016

The present Letters Patent Appeal is directed against an order dated 13th of March, 2012 passed by the learned Single Judge in CWJC No 8499 of 2007 whereby an order withholding 5% pension has been substituted to recover a loss of Rs 26,972.30 ps if not already recovered from the pensionary dues of respondent No 1 and

restoration of full pension thereafter.

2 The challenge in the writ petition was to an order dated 15th of March, 2007 whereby a sum of Rs 26,972.30 ps was directed to be recovered from the pension/gratuity with further direction to withhold 5% pension of writ petitioner for all times to come. Such order was passed after completion of departmental proceedings against respondent No 1. learned Single Judge has rightly found that the recovery of loss of sum of Rs 26,972.30 ps from the pensionary dues of respondent No 1 would be fair and reasonable and, thereafter, full pension should be restored.

3 Since respondent No 1 was proceeded against for loss of Rs 26,972.30 ps, the said amount alone could be recovered from his pensionary benefits. Such right has been reserved in favour of the State but withholding of 5% pension alone has been set aside.

4 We do not find any error in the order passed by the learned Single Judge as interest of the State to recover the loss amount is protected. This Letters Patent Appeal is dismissed.

(Hemant Gupta, J)

M.E.H./-

(Navaniti Prasad Singh, J)

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