

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.253 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 1420 of 2013**

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Kaushaleya Devi, wife of Late Ashok Kumar Shukala, Resident of Village- Sohani Patti, P.O.- Sohani Patti, P.S.- Buxar, District- Buxar.

.... Appellant/s

Versus

1. The Chairman, (Bihar State Electricity Board), B.S.E.B., Vidut Bhawan, Patna.
2. The Secretary, B.S.E.B., Vidyut Bhawan, Patna.
3. The General Manager-cum-Chief Engineer, Central Electric Supply Area 6th Serpentine Road, Patna.
4. The Superintending, Electric Circle, Bhojpur (Ara).
5. The Executive Engineer, Electric Supply Division, Buxar.
6. The Assistant Engineer, Electric Supply, Sub Division (Gramin), Bhojpur, (Ara).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gopal Govind Mishra, Advocate

For the Respondent/s : Mr. Ranjit Sinha, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 16-12-2016

Re.:I.A. No. 978 of 2016

The application is for condonation of delay of one day 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 one day in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 978 of



2016 is allowed and delay of one day in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 253 of 2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 9th of October, 2015 in C.W.J.C. No. 1420 of 2013 whereby, the writ application filed by the appellant claiming interest on delayed payment of salary remained unsuccessful.

3. The appellant faced criminal and departmental proceedings. In criminal proceedings, he was acquitted whereas, in the departmental proceedings he was exonerated. After exoneration and acquittal, he filed a writ application before this Court bearing C.W.J.C. No. 13704 of 2011 (Ashok Kumar Shukala Vs. The Chairman, Bihar State Electricity Board & Ors.) claiming salary for the period he was under suspension pending criminal and departmental proceedings. Such writ application was allowed on 19th of September, 2011. Admittedly, arrears of salary have been paid thereafter. It is thereafter, the appellant raised claim of interest on account of delayed payment of salary. Such claim has been rejected by the learned Single Bench on the ground that the appellant did not make a prayer for interest in the earlier writ application filed by him,



therefore, he is precluded from raising the plea of interest in a subsequent writ application.

4. We do not find any error in the order passed by the learned Single Bench. Though Civil Procedure Code is not applicable to the writ proceedings, but keeping in view the broad principles of the Code of Civil Procedure, in terms of Order II Rule 2 of the Code of Civil Procedure, all causes of action have to be included in one petition. Failure to claim interest in the earlier petition precludes the appellant to raise the plea of interest in a subsequent writ application.

5. In view thereof, we do not find that there is any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

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

(Hemant Gupta, ACJ)

(Arvind Srivastava, J)

P.K.P.

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	20.12.2016
Transmission Date	

