

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2208 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 13225 of 2014

Along with

Interlocutory Application No.9555 of 2011

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1. Dr. Lal Bahadur Roy, Son of Sri Jaldhar Roy, Resident of 301, Madhukunj Apartment, Near Forest Office, Nehru Nagar, P.S.- Patliputra, District- Patna.
 2. Dr. Sawal Kishore Singh, son of Sri Ambika Prasad Sharma, Purvi Laxmi Nagar, Khemnichak, P.S.- Ram Krishna Nagar, District- Patna.
 3. Dr. Amar Nath Sinha, Son of Sri Nawin Kumar Ambastha, Resident of Flat No. 311/C, Jyotipuram Apartment, Jagdeo Path Golambar, Bailey Road, P.S.- Shastri Nagar, District- Patna.
 4. Dr. Vivekanand Singh, son of Late Bhubneshwar Prasad Singh, Resident of Professor Quarter, NIT Campus, Ashok Raj Path, P.S.- Pirbahore, District- Patna.

.... Appellant/s

Versus

1. The Union of India through the Secretary (Higher Education), Ministry of Human Resources Development, Government of India, Shastri Bhawan, New Delhi.
2. The Deputy Secretary (N.I.T's), Ministry of Human Resources Development, Government of India, Shastri Bhawan, New Delhi.
3. The Chairman, Board of Governors of National Institute of Technology, Ashok Raj Path, Patna.
4. The Director, N.I.T. Patna-cum-Chairman Selection Committee, National Institute of Technology, Ashok Raj Path, Patna.
5. Board of Governor's of National Institute of Technology through its Registrar, Ashok Raj Path, Patna.
6. National Institute of Technology, Patna through its Registrar, Ashok Raj Path, Patna.
7. Dr. Shambhu Sharan Mishra, son of Late Shiv Shankar Mishra, a resident of 303 Bhawani Place, Anandpuri, P.S.- Krishna Puri, District- Patna.
8. Dr. Om Prakash, son of Shri Ram Das, a resident of Professor Quarter, N.I.T. Campus, Ashok Raj Path, P.S.- Pirbahore, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Amar Nath Singh, Advocate

For the Respondent-Union of India : Mr. Rajesh Kumar Verma, C.G.C.

For the respondent Nos.3 to 6 : Mr. Y. V. Giri, Senior Advocate
Mr. S. K. Giri, 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: 04-08-2016

Re.: Interlocutory Application No.9555 of 2015

The application is for condonation of delay of 161 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.2208 of 2015

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 30th March, 2015 whereby challenge to an order of recovery of the excess amount paid to the appellants as Assistant Professor (Associate Professor) remained unsuccessful.

2. Learned counsel for the parties agree that similar question came up before this Court in Letters Patent Appeal No.1840 of 2015 [Dr. (Mrs.) Kalpana Sinha *Versus* The Union of India & Ors.] decided on 18th of May, 2016, wherein this Court has accepted the

similar claim as that of the appellants and the recovery effected from the salary of the appellant in the aforesaid case was ordered to be refunded with all consequential benefits.

3. Learned counsel for respondent nos.3 to 6 states that the said judgment of this Court is subject matter of appeal before the Supreme Court arising out of Special Leave to Appeal (C) No.19076/2016 wherein the Hon'ble Supreme Court has observed that in the event of the petitioners' success (respondents herein), they can recover the excess amount, if any, paid to the appellants herein.

4. In view of the said fact, the order passed by the learned Single Bench of this Court on 30th of March, 2015 is set aside and the present Letters Patent Appeal is allowed in terms of the reasoning recorded in Letters Patent Appeal No.1840 of 2015 and in the same terms. However, the same shall be subject to the decision of the appeal arising out of Special Leave to Appeal (C) No.19076/2016 and subject to the right of recovery by the respondents as permitted by the Hon'ble Supreme Court in the order dated 25th July, 2016.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

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