

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2130 of 2016
IN
Civil Writ Jurisdiction Case No. 17657 of 2016

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Kailash Singh, son of late Panchu Singh, resident of village- Baseta, P.O. + P.S. Imamgang, District- Gaya, retired Forest Regional Officer, Bihar.

.... Appellant

Versus

1. The State of Bihar, through the Secretary cum commissioner, Environmental and Forest Department, Bihar, Patna.
2. The Secretary cum Commissioner, Environmental and Forest Department, Bihar, Patna.
3. The Principal Secretary, Environmental and Forest Department, Bihar, Patna.
4. The Secretary cum Commissioner, Finance Department, Bihar Patna.
5. The Managing Director, Bihar State Forest Development, Corporation Ltd., 13 Patliputra Colony, Patna-13
6. The Divisional Manager, Minor Forest Produce Project, Division, Gaya.

.... Respondents

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Appearance :

For the Appellant : Mr. Sanjay Kumar, Advocate.

For the Respondents : Mr. Sarvesh Kr.Singh, AAG 13

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 18-11-2016

Heard learned counsel for the petitioner and learned counsel
for the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 24th of October, 2016 in CWJC No. 17657 of 2016 whereby the writ application was dismissed with cost of Rs. 5000/-.

3. The facts leading to this appeal are that the appellant earlier filed a writ petition bearing CWJC No. 18304 of 2011 for a direction to the respondents to pay salary to the petitioner from 6th of November, 2004 to September, 2009 i.e till the date of superannuation with interest on the basis of 6th pay committee report. Such writ

application was decided on 17th of October, 2011 with a direction to decide the representation. It is thereafter, the representation was declined on 23rd of November, 2011. The appellant challenged the said order in CWJC No. 1352 of 2012. The said writ application was dismissed on 19th of January, 2012. The order reads as under:-

“The petitioner has earlier approached this Court for the same relief by filing C.W.J.C. No. 18304 of 2011, which was disposed of holding that considering the inordinate delay in approaching this Court for the relief set out by the petitioner, this Court was not inclined to invoke its extraordinary writ jurisdiction in the matter. However, this Court made it clear that refusal by this Court to interfere in the matter would not preclude the petitioner from moving before the departmental authorities and they would not be precluded from considering and disposing of his representation in accordance with law as quickly as possible.

The representation of the petitioner has been disposed of by the Chief Conservator of Forest-cum-Managing Director, Bihar State Forest Development Corporation Ltd. by order dated 23.11.2011. The petitioner has, now, approached this Court against the said order.

In my view, once this Court had made it clear that it was not inclined to invoke its extraordinary writ jurisdiction due to inordinate delay by the petitioner in approaching this Court, his remedy under the writ jurisdiction stands barred and he cannot be permitted to approach this Court again in the matter.

The writ application is, accordingly, rejected as not maintainable.

It is, however, submitted by learned counsel for the petitioner that the petitioner has filed a representation before the Principal Secretary, Environment and Forest Department,

Govt. of Bihar against the aforesaid order. It would be open to the Principal Secretary to consider the said representation of the petitioner at his own level and dispose it of, if possible, expeditiously as the petitioner is a retired employee.

However, it is made clear that such disposal of the representation will not entitle the petitioner to again approach this Court against the said order.”

4. The representation of the petitioner in terms of the said order has not been decided. It is thereafter, the petitioner filed CWJC No. 17657 of 2016 which has been dismissed by the order impugned in the present appeal on the ground that the objection of stamp reporter is correct, which has not been met by the appellant.

5. Objection no.7 raised by the stamp reporter is as follows:-

“It appears from perusal of Annexure 9, it is submitted before the Hon’ble Court for consideration whether this case is maintainable.”

In respect of such defect, the stand of the Advocate-on-record is as follows:-

“As per defect No.7 pointed out by the Stamp Reporter, it is not a defect, let this file be placed before Hon’ble Bench under Heading “for orders” for consideration”

6. It is in the light of such note of the Advocate-on-record, the learned Single Bench dismissed the writ petition with cost of Rs.5000/-.

7. The representation of the petitioner was declined on 23rd of November, 2011. The challenge to the said representation has

remained unsuccessful before the learned Single Bench as per the order reproduced above. Instead of explaining that how the writ petition would be maintainable, the Advocate-on record has stated that the writ application should be placed before the Bench as such. The question is how the writ petition would be maintainable for the same relief, when there is no new cause of action. The representation stood already decided. There is no fresh decision on his representation. Learned Counsel for the appellant could not explain either before the learned Single Bench or before this Court, that how second writ petition for the same cause of action would be maintainable. Once the learned Single Bench of this Court had passed an order which order has not been challenged by the appellant, therefore, by filing another writ application, the appellant cannot be permitted to dispute the order passed by a Coordinate Bench.

8. We do not find any error in the order of the learned Single Bench which may warrant any interference by this Court. The Letters Patent Appeal is accordingly dismissed.

(Hemant Gupta, J)

(Vikash Jain, J)

B.T/Ibrar

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