

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.164 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 4192 of 2004
Along with
Interlocutory Application No.739 of 2015

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Ramashray Singh, S/O Late Sri Kali Singh, resident of village- Sagma, P.S-
Kashichak, Distt-Nawada.

.... Petitioner-Appellant

Versus

1. The Bihar State Road Transport Corporation through its Administrator,
Birchand Patel Marg, Patna.
2. The Administrator, The Bihar State Road Transport Corporation, Birchand Patel
Marg, Patna-1.
3. The Divisional Manager, Patna Division, Bihar State Road Transport
Corporation, Patna.
4. The Dept. Superintendent, Bihar State Road Transport Corporation, Bihar Shariff
Dept. Bihar Shariff, Nalanda.

.... Respondents

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Appearance :

For the Appellant : Mr. Rakesh Kumar Jha, Advocate
Mr. Pravin Kumar, Advocate

For the Respondents : Mr.

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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: 06-04-2016

Re.: Interlocutory Application No.739 of 2015

The application is for condonation of delay of two years
and 153 days in filing of the appeal.

Though we do not find that the delay is explained, but in the larger interest of justice, we deem it appropriate to condone the delay in filing of the appeal. Consequently, the delay of two years and 153 days in filing of the appeal is condoned.

Interlocutory Application stands disposed of accordingly.

Re.: Letters Patent Appeal No.164 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 15th of May, 2012 whereby the writ application challenging the order of punishment dated 06.08.2003 remained unsuccessful.

The appellant was charge-sheeted on 16.02.1989 for the reason that he has not joined at Bhagalpur though he was transferred on 15.09.1984. An Enquiry Officer was appointed and after giving an opportunity of hearing to the appellant, the Enquiry Officer submitted his report on 12.12.1997. It is thereafter, second show cause notice dated 18.11.2002 was served upon the appellant. The appellant submitted his reply dated 05.02.2003. Thereafter, the impugned order of punishment was passed on 06.08.2003 against the appellant for forfeiture the amount of gratuity.

A perusal of the order passed by the learned Single Bench shows that earlier also, departmental proceedings were



initiated against the appellant on 18.08.1982 whereby there was punishment of stoppage of one yearly increment in salary with cumulative effect, apart from fine of Rs.800/-. It was ordered that the appellant be transferred to Bhagalpur division. It is in pursuance of the said order, the appellant was transferred to Bhagalpur which order the appellant defied for more than four years. He joined only after disciplinary proceedings were initiated against him.

The argument raised by learned counsel for the appellant is that his explanation (Annexure-8 to the writ petition) has not been considered while imposing punishment. We do not find that in the explanation, the appellant is saying anything more than what was his stand before the Enquiry Officer. The Enquiry Officer has considered the evidence led by the department as also given an opportunity to the appellant to cross-examine the witnesses and thereafter submitted a report. The order of punishment has been passed for withholding the gratuity of the appellant for the reason that in the meantime, the appellant attained the age of superannuation.

We do not find any error in the decision making process. While exercising the power of judicial review, this Court is to examine the decision making process and not the ultimate decision. Since there is neither any illegality nor any irregularity in the decision making process pointed out, we do not find any ground to interfere

with the order passed by the learned Single Judge in the intra-court appeal.

The Letters Patent Appeal thus stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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