

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1321 of 2010

IN

Civil Writ Jurisdiction Case No. 10785 of 2007

Kamala Singh S/O Late Ramsakhi Singh R/O Vill.- Bididi, P.S.-
Chainpur, Distt.- Rohtas

.... Appellant

Versus

1. The State of Bihar through the Pradhan Secretary, Water Resources Department, Patna
2. The Pradhan Secretary, Water Resources Department, Patna
3. The Chief Engineer, Mechanical, Water Resources Department, Patna
4. The Superintending Engineer, Irrigation Mechanical Circle Mithapur, Patna
5. The Executive Engineer, Field Machinery Division, Tilka Manjhi, Bhagalpur

.... Respondents

Appearance :

For the Appellant/s : Mr. Vishwanath Ram, Advocate

For the Respondent/s : Mr. Kumar Alok, SC-8

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 19-04-2016

This Intra-Court Appeal arises from judgment
and order dated 01.07.2009 passed by the learned Single
Judge of this Court in C.W.J.C. No. 10785 of 2007.

2. The facts are short and the dispute is even
shorter. The writ petitioner/appellant was in work charge
establishment. The dispute relates to the date from which he
was brought into regular establishment. According to writ
petitioner/appellant, Executive Engineer determined the date



to be 21.03.1981, and later by the Chief Engineer order, dated to be 19.10.1981. Thus, the date is being shifted by about seven months. Thus, action has been taken on the said ground upon a mistake which is now being discovered after almost two decades. Admittedly, there is no allegation that the writ petitioner/appellant was in any manner responsible for such a mistake being committed. The learned Single Judge relying on the full Bench Decision in the case of **Ram Binod Singh Vs. Bihar State Electricity Board** since reported in **2007 (3) BBCJ 467**; for the proposition that the mistake would be corrected and amounts paid under the State would be recovered.

3. Learned counsel for the writ petitioner/appellant brings to our notice of the judgment of the Apex Court in the case of **State of Punjab Vs. Rafiq Masih** since reported in **(2015) 4 SCC 334**; wherein such a bald proposition has not been accepted as correct. It has, *inter alia*, being held that such correction being made within a short time is permissible, but not after long delay especially when an employee is not to be faulted.

4. In the present case, as we have noticed, the employee has nothing to do with the said mistake and now

correction is sought to be made after two decades with a recovery order.

5. In view of the judgment of the Court's below, we have no option but to set aside the order of the learned Single Judge and allow the writ petition, setting aside the order of Departmental Authorities of recovery of money from the writ petitioner/petitioner.

6. It goes without saying, that so far as the claim of the writ petitioner/appellant for time bound promotion is concerned, the same cannot be denied by the authorities, the only thing would be the date may shift, but, otherwise entitlement cannot be denied.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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