

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1211 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 24532 of 2013

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1. The State of Bihar through Secretary, Building Construction Department, Govt. of Bihar, Patna.
 2. The Chief Engineer, Public Health Engineering Department, Govt. of Bihar, Patna.
 3. The Executive Engineer, Building Construction Department, Purnea Division, Purnea.
 4. The Sub Divisional Officer, Building Sub Division, Building Construction Department, Purnea.
 5. The District Magistrate, Purnea.

.... Appellant/s

Versus

1. Md. Matin, Son of Late Haji Abdur Rahim R/o Village- Jalkaura, P.S- Khagaria, District- Khagaria, Bihar. Writ Petitioner/Respondent 1st set
2. The Accountant General, Bihar, Bir Chand Patel Path, Patna.

.... Respondent/ Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Karn
For the Respondent/s : Mr. Ajit Kumar

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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: 23-06-2016

I.A.No. 5158 of 2015

This interlocutory application has been filed seeking condonation of the delay of 167 days in preferring the present Letters Patent Appeal.

In view of the reasons assigned and the submission made in support thereof, this application is allowed and the delay in preferring the appeal is condoned.

L.P.A.No. 1211 of 2015

The order dated 15th October, 2014 passed by the learned Single Bench in CWJC No. 24532 of 2013 is the subject matter of challenge in the present Letters Patent Appeal. By the order impugned, the learned Single Bench has directed the present appellant to take a final decision regarding payment of pension to the writ applicant having rendered 31 years of continuous service in Work Charge Establishment.

The learned Single Bench while disposing of the writ petition has referred to a Division Bench judgment of this Court in the case of *Koshi Project Workers' Association vs. State of Bihar [2007 (1) PLJR 358]*. In the aforesaid case, the Court considered the notification dated 4th December, 1949, wherein the State Government incorporated in P.W.D. Code Volume-1, the condition of work-charge establishment and thereby provided, that the post of work-charge establishment which are of permanent nature, i.e. required for 12 months in a year and for long and indefinite period, will be made permanent. Reference was also made to a notification dated 16th April, 1950, wherein rules, regulations and instructions were directed to be continued in the State of Bihar. After considering the said notifications, the Court held to the following effect:-

“10. In view of the said notification published on 26th April, 1950 the revised condition service of work-charge establishment as

decided by the Government on 4th February, 1949 became legislative service rules pertaining to the employees of the work-charge establishment of the Government. As a result of such decision of the Government which has not yet been cancelled or repealed by any enactment made by the Legislature of the State, an employee working in the work-charge establishment for a period of more than one year is deemed to have become a member of the permanent establishment of the State Government.”

In the present case, the workman has worked for about 31 years in a work charge establishment. Therefore, in terms of the notifications referred to above, the writ applicant has rightly been found to be entitled for retirement benefits. We do not find any error in the order passed by the learned Single Judge which may warrant interference by this Court in appellate jurisdiction.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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