

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.333 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 11156 of 2013
Along with
Interlocutory Application No.1550 of 2015

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1. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd.,
Sone Bhawan, Birchand Patel Path, Patna.
 2. The Chief Administrative Officer, Bihar State Food and Civil Supplies
Corporation Ltd., Sone Bhawan, Birchand Patel Path, Patna 1.

.... Respondents-Appellants

Versus

1. Lal Babu Singh son of late Deo Muni Singh, resident of Village-Bajarayan,
P.S.- Sahar, District-Bhojpur at Ara.

.... Petitioner-Respondent.

2. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.

.... Respondent-Respondent.

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Appearance :

For the Appellants : Mr. Amrendra Narayan Rai, Advocate

For the Respondents : None

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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: 09-05-2016

Re.: Interlocutory Application No.1550 of 2015

The application is for condonation of delay of 59 days in
filing of the appeal.

For the reasons mentioned in the application and explained
by the learned counsel for the appellants, we find that sufficient cause is

made out for condonation of delay. Consequently, the delay of 59 days in filing of the appeal is condoned.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.333 of 2015

The order dated 11th August, 2014 passed in CWJC No.11156 of 2013 by the learned Single Bench of this Court is subject matter of challenge in the present Letters Patent Appeal wherein, the appellants have been directed to settle all the retrial dues of the writ applicant without further delay preferably within a period of three months. It was also ordered that the appellants will not include the outstanding dues or component of interest payable on the so-called loss and misappropriation.

The writ applicant has invoked the writ jurisdiction of this Court for a direction for payment of the retrial dues. In counter affidavit, the stand of the respondents was that the writ applicant superannuated on 30th June, 2012 and that some E.P.F. contribution has been paid on 26th June, 2013, but there is recovery of Rs.24,25,849.29 paise, therefore, the amount of gratuity, i.e. Rs.2,55,140/- and the amount of leave encashment, i.e. Rs.97,371/- have been adjusted against the said amount. It is the said order which has been set aside by the learned Single Bench.

The only argument raised by the learned counsel for the



appellants is that there was an order of punishment consequent to departmental proceedings on 26th of March, 2009, which order changes the entire complexion of the matter. Admittedly, the said order was not referred to by the appellants in its counter affidavit before the learned Single Bench. A perusal of the said document, attached as Annexure-2 with the Letters Patent Appeal, shows that a sum of Rs.2,48,422.40 paise was said to be recoverable from the writ applicant. The appellants have also produced on record a communication dated 18th February, 2014 pointing out that a sum of Rs.4,91,821.48 paise is recoverable from the writ applicant out of which Rs.2,32,580.78 paise stands recovered, but thereafter, the appellants raised demand of Rs.21,66,608.59 paise towards interest.

Learned Single Bench has rightly found the demand to be untenable, more so, when the fanciful rate of interest is claimed from the writ applicant. Learned counsel for the appellants could not show any Rule, Regulation or Circular which authorizes the appellants to charge interest at all and, if any, at what rate and in what manner. The learned Single Bench was right in holding that laws are applied by the appellants in respect of its employees in different manner.

We find no illegality or irregularity in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal. The same is dismissed.

However, if any amount is recoverable by the appellants they are at liberty to proceed in accordance with law after complying with the principles of natural justice.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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