

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19350 of 2015

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1. The Union Of India through the Secretary cum D.G. Department of Posts, Dak Bhawan, New Delhi.
 2. The Chief Postmaster General, Bihar Circle, Patna.
 3. The Director of Postal Services (Hq), O/o the Chief Postmaster General, Bihar Circle, Patna.
 4. The Sr. Superintendent of Post Offices, Gaya Division, Gaya.

.... Petitioners

Versus

Ram Naresh Singh, Son of Late Jitan Singh, Resident of Mohalla - Patel Nagar,
P.S. - Jehanabad, District - Jehanabad.

.... Respondent.

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Appearance :

For the Petitioners : Mr. Sanjay Kumar(ASG)

For the Respondents : Mr. Hemant Kumar Karn, Advocate.

Mr. Jayant Kumar Karn, Advocate.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 12-01-2016

Heard the learned counsel for the Union of India and learned counsel for the contesting respondent, who was the applicant before the Central Administrative Tribunal Patna Bench, Patna (hereinafter referred to as the 'Tribunal').

Interlocutory Application No. 9787 of 2015 has been filed by the Union of India for stay of the interim order as passed by the Tribunal. Advisedly, we are not going into the merits of the case, as

the matter is sub-judice before the Tribunal. However, the challenge before this Court being to the interim order, we are of the view that the Tribunal erred in passing the order in the terms indicated therein.

The applicant before the Tribunal, who is the sole contesting respondent before us, pursuant to a departmental proceedings was ordered to be compulsorily retired. He challenged the same before the Tribunal on the ground that the order was not sustainable inasmuch as in spite of total disagreement with the inquiry report, there was no note to that effect nor any disclosure or show cause has been issued to the applicant. The inquiry report had totally exonerated the applicant. The Tribunal entertained the original application and by the impugned order stayed the order of compulsory retirement.

On behalf of the Union of India, it is submitted that the punishment order was the final order passed by the disciplinary authority, which was compulsory retirement. The applicant had challenged the same and the final relief which the applicant sought for, was setting aside the order of the compulsory retirement. Compulsory retirement had taken effect then it was not open for the Tribunal, as the interim measure, to stay the order.

Having considered the matter, in our view, learned counsel for the Union of India is correct. Ordinarily, a final relief sought for

cannot be granted by way of an interim order. Here, no interim order was required because the order of compulsory retirement had taken effect and if the application before the Tribunal was to be allowed, the applicant before it would be entitled to get all the remuneration which he was deprived of. There would not be a case of any irreparable loss or injury. Therefore, in our view, the impugned order of the Tribunal staying the order of compulsory retirement is not sustainable. It is, accordingly, set aside.

However, considering the facts and circumstances, we would request the Tribunal to immediately take up the matter for hearing and dispose of the same, as early as possible, and if possible within one month from today. Needless to say that Union of India should also be anxious for early disposal and shall co-operate in disposal of the matter.

With the aforesaid observation and direction, this writ petition stands disposed of.

(Navaniti Prasad Singh, J.)

Rajiv/Arjun

(Nilu Agrawal, J.)

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