

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.77 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 5587 of 2015**

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Rakesh Kumar Singh (Ex- Senior Assistant, C.P.) S/o Late Subash Singh, resident
of Village+P.O.- Balua Via Nimez, District- Buxar

.... Appellant/s

Versus

1. The Union of India through its Secretary, Ministry of Water Resources, Govt. of India, Shram Shakti Bhawan, New Delhi
2. The Secretary, Ministry of Water Resources, Govt. of India, Shram Shakti Bhawan, New Delhi
3. The National Project Construction Corporation Ltd. (A Govt. of India Enterprises) through its Managing Director, Sector 25 Faridabad (Haryana)
4. The Chairman and Managing Director, National Project Construction Corporation Ltd., Sector 25 Faridabad (Haryana)
5. The Senior Manager, National Project Construction Corporation Ltd., Sector 25 Faridabad (Haryana)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Aditya Narayan Singh, Advocate.
For the Respondent/s : Mr. S.D. Sanjay, A.S.G.
Mrs. Punam Kumari Singh, C.G.C.

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 19-11-2016

Re.:I.A. No. 231 of 2016

The application is for condonation of delay of 225 days in
filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory
Application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay of 225 days in filing the present

Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 231 of 2016 is allowed and delay of 225 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 77 of 2016

Heard learned counsel for the parties.

2. The order dated 10th of April, 2015 passed by the learned Single Bench of this Court in C.W.J.C. No. 5587 of 2015 is subject matter of challenge in the present Letters Patent Appeal.

3. The challenge in the writ application was to an order of transfer of the appellant on 6th of February, 2004 from Shillong to Dehradun. Earlier, the appellant filed Civil Suit at Shillong which was dismissed. Thereafter, departmental proceeding was initiated against him for remaining absent from duty. He was charge-sheeted on 26th of December, 2005. It is thereafter, on 28th of August, 2006, an order of dismissal was passed.

4. It appears that the appellant filed a representation claiming payment of salary and other allowances. Such representation was rejected on 15th of December, 2011. Another representation was filed which was rejected on 25th of September, 2013 which order was challenged by the appellant before the Writ Court. Before the Writ Court, the argument of learned counsel for the appellant was that the

appellant is now ready to join at the transferred station, therefore, the Corporation should be directed to accept the joining of the appellant.

5. We find that the appellant was transferred in the year 2004 and on account of his failure to join, a departmental proceeding was held and order of dismissal was passed on 28th of August, 2006. Such order having not been challenged, the appellant cannot claim any salary and other allowances, claim of which was rejected firstly on 15th of December, 2011 and secondly on 25th of September, 2013. It is too late in the day for the appellant to raise an argument that he is ready to join the service. After dismissal, such a request cannot be entertained and has rightly not been entertained by the learned Single Bench.

6. We do not find any ground to interfere in the order passed by the learned Single Bench in the intra court appeal.

7. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	22.11.2016
Transmission Date	