

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8851 of 2014

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Sheo Muni Ram, son of late Dular Ram Village - Genghara, P.O. Thamban Pura,
P.S. - Phephana, District - Balia, U.P.

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Finance, New Delhi.
2. The Commissioner (P&E), Customs, Patna.
3. The Joint Commissioner (P&E), Customs, Patna.
4. P.A.O., Central Excise Head Quarters, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ray Shivaji Nath, Sr. Advocate
Mr. Ray Saurabh Nath, Advocate
For the Union of India : Mr. Anshuman Singh (C.G.C.)

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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: 29-03-2016

Heard Sri Ray Shivaji Nath, learned Senior
Counsel for the petitioner and Sri Anshuman Singh for the Union of
India and with their consent we are disposing of this writ petition at
this stage itself.

The writ petitioner is aggrieved by the order of
the Central Administrative Tribunal, Patna Bench, Patna dated
31.01.2014 in O.A. No. 050/00089/2014 refusing to condone the
delay and to entertain his original application. We have gone through
the order of the Tribunal. Tribunal has noted that the writ petitioner
was made to retire on medical grounds in the year 2008. He had been



absenting from duty from 2006 to 2008. In 2013, he filed application before the Tribunal claiming payment for the period 2006 to 2008 on the ground that during that period he was mentally sick and under treatment and, as such, should be paid his due wages. The Tribunal found that the application having been filed in 2013 in respect of cause of action, which was for the period 2006 to 2008, there being no sufficient cause for the delay, the application could not be entertained in view of Section 21 of the Administrative Tribunals Act. There was no explanation. The Tribunal also noted that having been medically retired in 2008, the petitioner got all his retiral dues in 2009 like gratuity, fixation of pension, commutation of pension etc. but did not complain.

Learned Senior Counsel for the petitioner submitted that the plea was that he was mentally incapacitated in taking proper action. The Tribunal has noted this contention also and held that not a chit of paper was filed to show that he was mentally sick and under treatment. Learned Senior Counsel pointed out that the Tribunal has travelled beyond the petition for condonation of delay in holding that not a chit of paper was filed to show that the petitioner was mentally sick while in service. In our view, the Tribunal, in fact, meant that there was no paper shown to the Tribunal to show that the petitioner was mentally sick after his retirement and it is because of

that reason he could not pursue his remedy. Even before us, there is no explanation. The facts are otherwise. He waited for all his retiral dues to be settled including commutation of pension and thereafter he had moved the Tribunal. In our view, the Tribunal has not wrongly exercised the discretion vested in it. We, therefore, find no merit in the writ petition. It is dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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