

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1175 of 2016

Arising out of

Civil Writ Jurisdiction Case No.609 of 2007

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The Union of India through the Secretary (Fertilizer), Ministry of Chemicals and Fertilizers, Department of Fertilizers, Shastri Bhawan, New Delhi.

.... Appellant/s

Versus

1. Prosanta Kumar Ray, S/O Shri Mohan Lal Ray, Resident of Flat No. 54 B, Pocket- B, DDA, SFS Flats, Mayur Vihar, Phase 3, Delhi- 110096.
2. The Board of Directors, the Pyrites Phosphates and Chemical Ltd. (A Government of India undertaking), Corporate Office, 12-A Sector- 24, Noida, U.P.
3. The Pyrites, Phosphates and Chemicals Ltd. (A Govt. of India undertaking), Corporate Office, 12-A, Sector- 24, Noida, U.P. through its Chairman-cum Managing Director.
4. The Chairman cum Managing Director, the Pyrites Phosphates and Chemicals Ltd. (Govt. of India undertaking) Corporate Office, 12-A, Sector- 24, Noida, U.P. cum the Director (Fertilizers), Ministry of Chemical and Fertilizers, Department of Fertilizers, Shastri Bhawan, New Delhi.
5. The Official Liquidator, High Court Patna, having its office at Ministry of Corporate affairs, 4th floor, Block- A, Maurya Lok Complex, Dak Bunglow, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar, A.S.G.
Mr. Kunal Tiwary, Advocate

For the Respondent No.1 : Mr. Ram Prawesh Kumar, Advocate

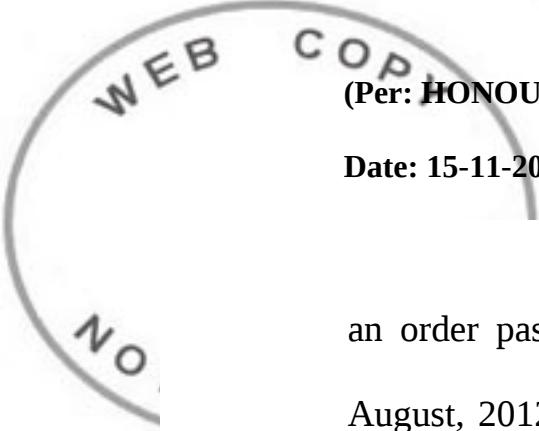
For the Respondent No.5 : Mr. Gautam Kejriwal, Advocate

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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: 15-11-2016



The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 24th August, 2012 whereby, the order dated 3rd March, 2005 to struck off the name of the writ applicant, the respondent no.1 herein, from the rolls of the Company was set aside. The learned Single Judge while allowing the writ application ordered that the Government of India shall examine the claim of the writ applicant for payment under the Voluntary Separation Scheme for which a representation was permitted to be filed within two months from the date of that order.

2. The challenge in the present Letters Patent Appeal is to a direction of payment of dues by the Government of India towards the Voluntary Separation Scheme. It is contended that even if the Government of India has given package for affecting Voluntary Separation Scheme, but such package will not entitle an individual employee to claim benefit of Voluntary Separation Scheme from the Government of India as benefit of such claim has to be conferred by the employer, i.e. M/s. Pyrites, Phosphates & Chemicals Limited.

3. A perusal of the record shows that as per the Annual



Report of the Company of the 2007-08 (now in liquidation) that the Voluntary Separation Scheme was extended in respect of Amjhore unit including hiving off of the Dehradun and Saladipura units. The Company had relieved 1211 employees till December, 2006 retaining 7 employees for all the three units after receiving Rs. 66.17 crores from the Government of India for giving effect to Voluntary Separation Scheme.

4. Learned counsel for the appellant submits that Rs. 66.17 crores was given by the Government of India to the Company for implementation of Voluntary Separation Scheme out of which till the liquidation, i.e. 12th July, 2007, the Company has spent Rs. 63.65 crores whereas the remaining amount of Rs.3.52 crore is lying with the Company.

5. The Company went into liquidation on 12th July, 2007; therefore, the claim of the writ applicant has to be settled by the Official Liquidator out the funds available with it. The Government of India cannot be burdened with the financial liability of an individual employee whose services were earlier terminated and has been found to be untenable by the learned Single Bench.

6. Consequently, the Letters Patent Appeal is allowed. The order of the learned Single Bench for examining the claim of the writ applicant for payment of Voluntary Separation Scheme by the

Government of India in the Ministry of Chemicals and Fertilizers,
Department of Fertilizers shall be examined by the Official Liquidator
of the Company, now under liquidation.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil/-

AFR/NAFR	A. F. R.
CAV DATE	N. A.
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