IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.491 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 17325 of 2013
Along with
Interlocutory Application No. 2190 of 2015
And
Interlocutory Application No. 2189 of 2015

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1. The State of Bihar through the Commissioner, Department of Excise, State of Bihar, Patna.
2. The Commissioner Department of Excise, State of Bihar , Patna
3. The Secretary, Department of Excise, State of Bihar , Patna
4. The Joint Commissioner, Department of Excise, State of Bihar, Patna.

.... Appellant/s

Versus

1. Vijay Kumar Chaurasia, s/o Late Anuplal Chaurasia R/o Sanjay Sadan, Post Office Road , Punaichak, P.S. - Shastrinagar, Distt. - Patna.

…… Petitioner/Respondent 1st Set

2. The Assistant Commissioner , Account Administration of Provident Fund, Finance Department , Bihar, Patna
3. The Accountant General Bihar, Virchand Patel Path Road, Patna.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Hari Shankar Roy, AC to PAAG
For the Respondent/s : Mr. Rakesh Kr. Samrendra, Advocate.

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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: 18-05-2016

Re.: Interlocutory Application No. 2190 of 2015

The application is for condonation of delay of 193 days in filing of the appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 193 days in filing of the appeal is

condoned.

3. Interlocutory Application stands disposed of.

<u>Re.: Letters Patent Appeal No. 491 of 2015</u>

The challenge in the present Letters Patent Appeal is to an order passed by the learned single Bench on 05.05.2014 whereby the writ petition filed by the writ petitioner, respondent herein, was allowed, whereby 10% of the remaining pension, Leave Encashment as well as Gratuity was withheld without conclusion of the departmental proceeding.

2. The learned single Bench allowed the writ petition directing the appellants to pay remaining pension, Leave Encashment and Gratuity, while giving liberty to the appellants to take legal steps in accordance with Rules against the writ petitioner, respondent herein.

3. In the memo of appeal itself, it has been stated that the disciplinary authority has passed an order on 27.06.2014 whereby punishment of withholding of 100% pension has been imposed upon the writ petitioner in terms of the provisions of Rule 139 (C) of the Bihar Pension Rules. Learned counsel for the respondent points out that the said order has been challenged by him in a separate proceedings.

4. We have heard learned counsel for the parties and

find that the order of withholding of part pension, Leave Encashment and Gratuity even during the pendency of disciplinary proceeding was legally not sustainable and has been rightly set aside by the learned single Bench. But since now an order has been passed withholding of 100% pension, we find that the appeal is rendered infructuous, consequently, it is dismissed.

5. I. A. No. 2189 of 2015 also stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-P.Kumar

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