

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.811 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 13311 of 2008

Along with

Interlocutory Application No.4134 of 2014

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Madhusudan Prasad Singh, son of Late Singeshwar Prasad Singh, resident of
Panchwati Ganga Tola, Ward No.19, P.O. & P.S. & District-Saharsa.

.... Petitioner-Appellant

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Secretary-cum-Commissioner, Animal Husbandry & Fisheries Department,
Govt. of Bihar, New Secretariat, Patna.
3. Secretary-cum-Commissioner (Finance), Old Secretariat, Patna.
4. Director of Fisheries, Old Secretariat, Patna.
5. Secretary, Personnel & Administrative Department, Old Secretariat, Patna.

.... Respondents-Respondents

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Appearance :

For the Appellant : Mr. Daya Shankar Prasad, Advocate

For the Respondents : Mr. Rajeev Kr. Singh, G. P.-15

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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: 07-04-2016

Re.: Interlocutory Application No.4134 of 2014

The application is for condonation of delay of 55 days in
filing of the appeal.

For the reasons mentioned in the application, we find that

sufficient cause is made out for condonation of delay of 55 days in filing of the appeal. Consequently, the delay is condoned.

Interlocutory Application stands disposed of accordingly.

Re.: Letters Patent Appeal No.811 of 2014

The challenge in the present Letters Patent Appeal is to an order dated 18th of December, 2012 whereby the writ application filed by the appellant was dismissed on account of delay and laches.

The claim of the appellant is that he is entitled to be promoted with effect from 01.05.1981 and also the benefit of revised pay scale of Rs.6500-10500/- with effect from 01.01.1996 consequent to acceptance of the recommendation of 5th Pay Commission.

The learned Single Bench dismissed the writ petition on the ground that the appellant has raised the claim after long lapse of time having attained the age of superannuation on 31st of January, 1999 by way of a writ petition filed in the year 2008.

We have heard learned counsel for the parties and find that the claim to promotion since the year 1981 suffers from gross delay and laches and that too having raised after attaining the age of superannuation, but in respect of claim for benefit of revised pay scale consequent to recommendation of the 5th Pay Commission with effect from 01.01.1996, we find that the appellant is entitled to benefit of revised pay as it confers reviving cause of action relating to pension as

well.

The recommendation of the 5th Pay Commission was notified on 3rd of April, 1999 that is after attaining the age of superannuation of the appellant on 31st of January, 1999. The appellant has not been granted benefit of revised pay scale consequent to the recommendation of the 5th Pay Commission which he is entitled to. Therefore, we find that the appellant would be given the benefit of revised pay scale notionally consequent to the recommendation of the 5th Pay Commission with effect from 01.01.1996, if not already granted. However, on the basis of notional revised pay scale, his pension would be notionally re-fixed, but arrears shall be paid only for the period of three years prior to the filing of the present writ petition.

The present writ petition was filed on 3rd of September, 2008, therefore, the appellant would be entitled to arrears of revised pension to be computed on the basis of revised notional pay with effect from 4th of September, 2005. If the appellant has not been paid the revised pay scale or the revised pension in pursuance of the recommendation of 5th Pay Commission, the necessary benefits be computed and disbursed to the appellant within a period of six months from the date of receipt of the certified copy of this order by the respondents.

With the aforesaid directions and observations, the present Letters Patent Appeal stands disposed of.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sunil/-

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