

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1520 of 2016

IN

Civil Writ Jurisdiction Case No. 14484 of 2015

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Amod Kumar Singh, Son of Late Krishnadeo Singh, resident of village - Sugia
Tole Raghunathpur, P.O. Sugia Katasari, P.S. + District - Sheohar

.... Appellant

Versus

1. The State of Bihar through the Engineer-in-Chief, Bagmati Irrigation Department, New Secretariat, Bihar, Patna
2. The District Establishment Compassionate Appointment Committee, Sheohar through the District Magistrate, District Sheohar
3. The Chief Engineer, Bagmati Irrigation Department, Kalambag Chowk, Muzaffarpur, District Muzaffarpur
4. The Superintending Engineer Bagmati Circle, Sitamarhi, District Sitamarhi
5. The Executive Engineer, Bagmati Irrigation Department, Sheohar, District Sheohar
6. The Sub - Divisional officer of Bagmati Irrigation Department Sheohar, District Sheohar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shyama Kant Singh, Advocate

For the Respondent/s : Mr. Dhurjati Kumar Prasad- G.P-14

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE DR. RAVI RANJAN

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE DR. RAVI RANJAN)

Date: 28-10-2016

Heard learned counsels for the appellant and the State.

The appellant-writ petitioner, being aggrieved by the judgment dated 04.07.2016 passed by a learned single Judge of this Court in C.W.J.C. No.14484 of 2015, has preferred this appeal.

The writ petition was preferred by the appellant for a direction commanding the respondent authorities to appoint him on



compassionate ground as his father Late Krishnadeo Singh died in harness on 22.06.2002 while working as ‘*Bandh Khalasi* (Peon)’ in *Bagmati* Circle, Sheohar. The petitioner-appellant claimed that after the death of his father, he duly applied in prescribed *proforma* on 07.12.2004 for his appointment on compassionate ground as there is a policy of the State Government for appointment of one of the dependants of the deceased employee of Class III and IV, who died during service. The time limit for filing such application was earlier fixed as two years from the date of death of the employee as mentioned in the Government’s Policy contained in Memo No.12754 dated 12.07.1977 but, later on, the same was extended from two years to five years vide Memo No.6817 dated 25.05.1989. However, since no decision was taken, the petitioner approached this Court by filing the writ petition in the year 2015.

In the meantime, it appears from the pleadings, that the disputes arose with regard to very identity of the deceased, i.e., father of the petitioner/appellant, namely, Krishna Deo Singh, and due to protracted litigations as the matters were pending before the Courts, the issue of appointment of the appellant was taken a back seat. A person, namely, Bishundeo Singh claimed that he is the real Krishnadeo Singh, employed in the Government service and, due to this, litigation cropped up between him and the mother of the



appellant. The Court had directed for an enquiry by the Sub Judge, Civil Court, Sheohar. After recording evidence and appreciating the same, a finding was recorded that such Krishnadeo Singh @ Bishundeo Singh was an impersonator. The aforesaid fact would be apparent from Annexure-7 to the writ petition, which is an order passed in M.J.C. No.2142 of 2012 heard along with Civil Review No.493 of 2012 in L.P.A.No.791 of 2006. Before that, a Division Bench, vide its order dated 09.09.2011 passed in L.P.A. No.791 of 2006 (Annexure-5 to the writ petition), had directed for payment of all retirement and other benefits accrued to the deceased employee, in favour of the mother of the appellant.

Thus, from the aforesaid facts, it is quite clear that the family of the deceased suffered from protracted litigations as the matter remained pending before the Court on the issue of said Bishundeo Singh being impersonator of real Krishnadeo Singh. Ultimately, the mother of the appellant succeeded in getting the retirement and other benefits which were payable to her deceased husband.

It is contended that the mother of the appellant has also passed away in the meantime. The appellant's case is that his mother had also supported his claim for appointment on compassionate ground.



The learned Single Judge has taken a view that, since the matter of appointment remained pending for such a long period due to the protracted litigations between the parties as the issue arose as to who is the real Krishandeo Singh, such benefit could not be granted to the appellant unless that issue was resolved finally. However, since the bread earner had died in the year 2002 and 14 years have already elapsed and the appellant has attained the age of 48 years and during this period, he has not been able to secure any employment, the Court was not inclined to extend such benefit at the belated stage.

Learned counsel appearing for the appellant has submitted that there is no fault on the part of the appellant as he had applied within the time prescribed in the Circular of the Government but the matter had remained pending for the reasons as stated above. He further relies upon Annexure-5 to the writ petition, which is a direction of the Division Bench rendered in L.P.A.No.791 of 2006 preferred by the mother of the appellant Mostt. Prabhawati Devi. A direction was given to the Department concerned to pay all retirement and **other benefits**, which had accrued to late husband of the mother of the appellant within a period of three months.

Learned counsel for the appellant has made an endeavor to impress upon this Court that **other benefits** would include direction for his employment on compassionate ground.



In our view, such submission made on behalf of the appellant does not have any foundation. The direction was for granting all the retirement and other benefits accrued to the late husband of the appellant of L.P.A. No.791 of 2006, which indicates towards financial dues for which appellant or the dependants are entitled. Employment on compassionate ground to the dependant is not a part of the contract between the employer and the employee. It is not the part of the service condition. The same has been engrafted by the State Government in the different circulars, as a welfare measure, to enable the dependants of the deceased employee to mitigate the hardship faced by them due to the sudden death of employee as, after the loss of bread earner, the family must be facing financial crisis. That does not mean that it is a part of the retirement benefits which are given to the employees. That apart, the family has survived for about 14 years and all the retirement and other benefits have already been given to the family so it cannot be held that at this juncture also, due to the death of an employee in the year 2002, the family is facing financial crisis. This fact is also correctly been noticed by the learned Single Judge that the petitioner/appellant is now 48 years old and, during the interregnum of 14 years, he has not been able to secure any employment.

It is well established that while considering intra court

appeal, if it is found that two views are possible in the matter and one has been taken by the learned Single Judge then, ordinarily, the appellate Court does not intervene in the matter. In our considered view, as discussed above, the appellant has not been able to make out any ground warranting interference of this Court in the decision taken by the learned Single Judge.

As a result, this appeal fails and is, accordingly, dismissed.

(Dr. Ravi Ranjan, J)

I. A. Ansari, C.J. : I agree.

(I. A. Ansari, CJ)

V.K. Pandey/-

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