

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.184 of 2016
IN
Civil Writ Jurisdiction Case No. 12655 of 2008**

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Shiv Aashish Choubey son of Harihar Chobey, resident of village- Fatehpur, P.S.- Sasaram, District- Rohtas, presently residing at Vatika Vihar, Anand Bihar, Ambedkar Path, Bailey Road, P.S.- Danapur, District- Patna

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna
4. The Chief Engineer, Irrigation Department, Dehri On Sone, Rohtas
5. The Superintending Engineer, Sone Canal Circle, Arrah
6. The Executive Engineer, Sone Canal Division, Arrah
7. The Account General, Bihar, Patna
8. The Provident Fund Commissioner, Bihar, Patna
9. The District Provident Fund Commissioner, Bihar, Patna

.... Respondents

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Appearance:

For the Appellant : Mr. Jai Shankar Pathak, Advocate
For the State : Mr. Sunil Kumar, AC to GA 12
For the Accountant General: Mr. Kumar Priya Ranjan, 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: 07-12-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 27th of July, 2015 in CWJC No. 12655 of 2008 whereby the writ application filed by the appellant was disposed of with a direction to the Engineer-in-Chief,



Water Resources Department to take a decision in respect of deduction of Rs. 12,195/- within a period of six weeks.

3. The appellant was working as an Accounts Clerk in the office of the Executive Engineer, Sone Canal Division, Arrah. He attained the age of superannuation on 29th of February, 2008. The petitioner invoked the writ jurisdiction of this Court claiming a direction to the respondents for payment of Pension, Gratuity, Leave Encashment, Group Insurance and Provident Fund and also to grant A.C.P. promotion. The petitioner has also sought quashing of the letter dated 29th of February, 2008 whereby a sum of Rs. 12,195/- was recovered from his salary.

4. A perusal of the order passed by the learned Single Bench shows that the respondents have claimed interest @ 18% for keeping an amount of seasonal employees in cash with him and not depositing the same in the Government treasury,

5. Learned counsel for the State states that in terms of the direction of this Court, the rate of interest claimed from the appellant have been reduced by 6% to 12% and all the retiral benefits stand paid to the appellant.

6. The appellant challenges the order passed by the learned Single Bench on the ground that the amount was kept in cash



on the basis of orders passed by his superior officers and therefore, he cannot be burdened with the liability to pay interest on the said amount and that there is no reasonable basis for withholding the amount of Rs. 12,195/- vide Annexure-10.

7. It is admitted by the appellant that the cash was kept with him may be in contemplation of payment to the seasonal employees. But the fact is that an official of the State Government cannot keep the cash in his almirah as the Government fund has to be either in the bank account of the department or in the treasury. The same cannot be kept in the almirah of any official. Whether such cash was kept by the appellant on the basis of an order passed by the Superintending Engineer or not remain unsubstantiated as there is no written order to keep the said amount with the appellant.

8. We find that neither there was any direction to keep the cash amount with the appellant and factually none was produced on record. Since the said amount was admittedly with the appellant therefore, it is in all fairness he must pay the interest on the said amount. Still further, an amount of Rs. 12, 195/- was claimed since, the Appellant could not produce documents to show that such amount was spent by him. If the appellant has any grievance regarding recovery of the amount of Rs. 12,195/- being upheld by the learned



Single Bench, the appellant shall be at liberty to avail appropriate alternative remedy for redressal of his grievance.

9. In view of the above, we do not find any merit in the present Letters Patent Appeal, which is accordingly dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Chandran/Ibrar

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