

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.504 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 10623 of 2012
With
Interlocutory Application No. 2131 of 2016.**

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1. The State of Bihar.
 2. The District Compassionate Appointment Committee through the Collector, Nalanda at Biharsharif.
 3. The Collector, Nalanda at Biharsharif.
 4. The Executive Engineer, Jalpath Pramandal, Biharsharif, Nalanda.
 5. The Block Development Officer, Sarmera, District - Nalanda at Biharsharif.
 6. The Anchala Adhikari, Sarmera, District Nalanda at Biharsharif.

.... Respondents / Appellants

Versus

Santosh Kumar, Son of Late Ram Briksh Paswan, Resident of Village and P.O. - Isua, P.S. - Sarmera, District - Nalanda.

.... Petitioner / Respondent.

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Appearance:

For the Appellant/s : None.
For the Respondent/s : Mr. Upendra Prasad,
Ms. Veena Kumari Jaiswal and
Mr. Sunil Kumar, Advocates.

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 26-04-2017

This is an appeal filed under Clause 10 of the Letters Patent. A challenge in this appeal is made to an order dated 27.07.2012 passed by the learned Writ Court in CWJC No. 10623/2012. The order was passed on 27.07.2012 and the present Letters Patent Appeal was filed on 09.03.2016, i.e., after a delay of more than 1233 days and therefore we are required to consider the



prayer made in I.A. No. 2131 of 2016 seeking condonation of delay in filing the appeal.

Having heard learned counsels for the parties on the question of condonation of delay, we find that the order in the Writ Petition was passed on 27.07.2012 and after obtaining a certified copy of the order, initially an LPA was filed and on 29.11.2012 a Token No. 97650/2012 was issued to the appellant pointing out various defects in the LPA. From 27.07.2012 till 12.11.2014, i.e., for a period of more than two years, the departmental authorities slept over the matter; did not bother to rectify the defects pointed out by the office nor did they take any step for prosecuting the LPA. The respondent employee, when he was not granted the benefit of the order passed by the learned Writ Court, initiated proceedings for contempt vide MJC No. 4424 of 2014. Notice of this contempt was issued and when the departmental authorities received the notice on 12.11.2014, they woke up, made enquiries from the counsel and it is their contention that on 09.01.2015 the counsel informed them that the defects pointed out in the LPA cannot be rectified now in the year 2015 and it is said that they were advised to file a separate LPA.

From the aforesaid narration of facts, it is clear that after the judgment was rendered in the Writ Petition on 27.07.2012 and after an LPA was filed in the matter and Token No. was issued on



29.11.2012, between 29.11.2012 till at least 12.11.2014 the departmental authorities slept over the matter. Thereafter, after the Standing Counsel gave his opinion on 30.07.2015, again the departmental authorities kept the file pending in their office and forwarded the matter to the Standing Counsel sometimes in November, 2015 and instructed him to take steps for filing of the appeal and it was only in December, 2015 that a decision was taken to file an appeal. According to the respondents, this decision was taken on 04.12.2015 and thereafter, even after taking a decision on 04.12.2015, the appeal was filed after a period of more than three months on 09.03.2016.

The case in hand pertains to grant of compassionate appointment to the respondent and from the manner in which the matter was dealt with by the respondents (appellants herein), we are of the considered view that the departmental authorities slept over the matter; were never interested in prosecuting the matter; by merely filing a defective LPA were satisfied by sitting in their offices and not taking any action to find out as to what had happened in LPA and it is only when the petitioner filed the contempt, the department woke up and took action as indicated hereinabove.

We are also of the considered view that the delay of more than three years has not been properly explained and the



departmental authorities have slept over the matter in a matter pertaining to compassionate appointment and now it is not a fit case where delay should be condoned and indulgence made.

Accordingly, finding no ground to condone the delay, the application for condonation of delay being I.A. No. 2131 of 2016 stands rejected. Consequently, the appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.04.2017
Transmission Date	N/A

