IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1784 of 2016
IN
Civil Writ Jurisdiction Case No. 9887 of 2011

==

1. The State Of Bihar thorough the Minor Irrigation Commissioner Bihar, Patna
2. The minor irrigation Commissioner, Bihar Patna.
3. The Secretary, Minor Irrigation Department, Bihar Patna.
4. The superintending Engineer, Minor Irrigation Department, Minor Irrigation Division, Bhagalpur.
5. The Executive Engineer, Minor Irrigation Department, Minor Irrigation Division Bhagalpur.

.... Respondents- Appellant/s

Versus

1. Shukdeo Chowdhary, son of late Deo Sharan Chowdhary, resident of-Patuchak, Danapur, Bibigang Danapur Catt. Police Station -Danapur, District-Patna

.... Petitioner-Respondent/s

2. The Accountant General, Bihar, Patna.

Respondent/Respondent 2nd Set.

==

Appearance :
For the Appellant/s : Mr. Vivek Prasad, G.P.-7
For the Respondent/s : Mr.

==

CORAM: HONOURABLE THE CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 19-05-2017

Re.: Interlocutory Application No.7291 of 2016

The delay in filing of this Appeal is condoned.

Interlocutory Application stands disposed of.

Re. : Letters Patent Appeal No.1784 of 2016

Seeking exception to an order dated 20th January, 2016 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.9887 of 2011; this Appeal has been filed by the State Government under Clause 10 of the Letters Patent.

The respondent is a retired employee and was granted the First Time Bound Promotion in the year 1986 and after his retirement on 31st January, 2010 it is seen that the First Time Bound Promotion granted in the year 1986 was cancelled and pay reduced. There were certain directions for recovery of excess amount. Similarly, certain orders were also passed with regard to recovery of amount based on further promotion granted. The learned Writ Court went into various aspects of the matter in detail and found that the First Time Bound Promotion granted in the year 1986 and its cancellation after the retirement, that is also after 25 years, based on an audit objection, is not permissible and after considering in detail various aspects of the matter, the writ petition has been allowed and the retired employee directed to be granted all benefits and refund of the amount with 7% per annum.

Having heard learned counsel for the parties at length, we see no error in the order of the learned Writ Court in doing so. The Department cannot be permitted to undo what was done and continued to be done for a period of 25 years when the employee was in service and all of a sudden make recovery while fixing his pension and other post retiral benefits on his retirement. In addressing the issue in the manner done, the learned Writ Court has not committed any error warranting reconsideration. The appeal is accordingly, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2017
Transmission Date	