

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1849 of 2016

IN

Civil Writ Jurisdiction Case No. 448 of 2013

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Ram Prakash Yadav son of Yadu Lal Yadav resident of Village- Simra, P.S.-
Phulpara, District- Madhubani

.... Appellant

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Special Secretary, General Administration Department, Government of Bihar, Patna.
4. The Secretary, State Transport Department, Government of Bihar, Patna.
5. The Accountant General (A & E) Bihar, Birchand Patel Path, Patna.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Durga Nand Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 14-12-2017

Having heard learned counsel for the appellant and having perused the order passed by the learned Single Judge dated 20th August, 2016, the conclusion reached for refusing grant of relief to the appellant by the learned Single Judge seems to be correct. As a principle of law, the relevant paragraph 10 is reproduced hereunder:

“10. The grant of stay by the Hon’ble Supreme Court is not an order of quashing of the First Information Report lodged, in which the petitioner is a suspect. The order of the Supreme Court means that there



cannot be any further proceedings.
Therefore, the judicial proceedings against the petitioner cannot be said to be concluded by virtue of an interim order referred to by the petitioner.”

However, one aspect of the matter does require consideration that the earned leave of the petitioner is required to be released in his favour withholding of gratuity or pension because of the appellant being an accused in a criminal case is integral to the Rule 43(c) of the Bihar Pension Rules. Therefore, there cannot be any order with regard to his gratuity at this stage.

The appeal is, otherwise, dismissed.

However, if an application, with a copy of this order, is filed before the authority for release of his earned leave, the authority will ensure payment of the same in his favour preferably within a period of four months.

(Ajay Kumar Tripathi, J.)

Rajeev/-

(Rajeev Ranjan Prasad, J.)

AFR/NAFR	NAFR
CAV DATE	NA
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