

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.579 of 2017
IN
Civil Writ Jurisdiction Case No. 1076 of 2006**

- =====
1. The State Of Bihar, through Director General of Police, Bihar, Patna
 2. The Director General of Police, Government of Bihar, Patna.
 3. The Deputy Inspector General of Police<saran at Chapra.
 4. The Deputy Inspector General of Police, Crime Investigation Department,
Government of Bihar, Patna.
 5. The Superintendent of Police, Gopalganj.

.... Appellant/s

Versus

Sheela Devi, W/o-Sri Vinay Kumar Singh, Resident of Village-Baikunthpur, P.S.-
Andar, Dist-Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anjani Kumar

For the Respondent/s : Mr. Shubh Narain Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 31-08-2017

Seeking exception to an order dated 02.03.2012 passed by
the learned Writ Court in CWJC No. 1076 of 2006, this appeal has
been filed under Clause 10 of the Letters Patent by the State.

Respondent-Sheela Devi is wife of Sri Vinay Kumar
Singh. Sri Vinay Kumar Singh was employed as Literate Constable



and at the relevant time was working in Gopalganj District Police Force. It seems that because of the mental condition and suffering he did not join duty. As a consequence thereof, neither was his service terminated nor was salary paid to him. Claiming salary the respondent-wife filed the writ petition and the learned Writ Court disposed of the matter in the following manner:-

“3. It is submitted by the counsel for the petitioner that off late her husband is suffering from insanity, as such, has neither been paid salary nor his services have been terminated on medical grounds. Services of the husband of the petitioner having not been terminated either on medical grounds or on the ground of unauthorized absence, the authorities have no option but to pay the arrears of salary due to the husband of the petitioner and thereafter to take action against him as per the provisions in the Police Manual. Salary of the husband of the petitioner be paid by the Superintendent of Police, Gopalganj within two months from the date of receipt/production of a copy of this order before him.

4. The writ petition is, accordingly, disposed of.”

Now challenging the aforesaid order which was passed on 02.03.2012, this appeal under Clause 10 of the Letters Patent has been filed after a period of 4 years and 361 days. IA No. 2238 of 2017 has also been filed seeking condonation of delay in preferring the appeal. The only reason for condonation of the delay is that after the order



was passed on 02.03.2012, file was received in the office of the Advocate General on 17.12.2015 and due to shifting of the office of the Advocate General records were misplaced and after the records were traced the appeal has been filed.

Even though such averments are made in the application for condonation of the delay but from the submission made by learned counsel appearing for the respondent we find that when the order passed in the writ petition was not complied with for a period of more than four years, a contempt application being MJC No. 2007 of 2016 was filed. In the contempt application, repeated opportunities were granted to the State Government to file their reply and when finally nothing was done, on 04.02.2017 and thereafter on 28.03.2017, time was granted to file show cause or comply with the order and on 28.03.2017 this appeal was filed. Records indicate that on 18.04.2017 in the contempt proceeding the State was granted four weeks time to comply with the order passed more than five years back.

It is, therefore, clear that it is only after notices were received in the year 2016 and on 04.02.2017 when the State Government was directed to file a show cause indicating compliance of the order passed in the writ petition, this appeal has been filed.

Considering the explanation submitted and reasons as stated in support of the delay in filing the appeal challenging an order



passed way back in the year 2012, we are satisfied that there is no proper explanation for condonation of the delay in filing of the appeal.

We are not inclined to interfere into the matter. The appeal is therefore dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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CAV DATE	N.A.
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