

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1573 of 2014

IN

Civil Writ Jurisdiction Case No. 20308 of 2010

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Md. Jamaluddin Hussain Mansuri, Son of Md. Gaji Hussain, Resident of Village - Mansha Tola (Near Railway Gumti), Post - Bettiah, P.S. - Bettiah Muffasil, District - West Champaran.

.... Petitioner / Appellant

Versus

1. The State of Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Collector, Bettiah, District - West Champaran.
4. The Additional Deputy Collector, Bettiah, District - West Champaran.
5. The Circle Officer of Narkatiaganj Circle, District - West Champaran.

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Satyavrat Verma, Advocate.

For the Respondent/s : Mr. Anil Kumar Verma, AC to AAG 9.

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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: 01-11-2017

Heard learned counsel for the appellant and learned counsel for the State.

2. Letters Patent Appeal has been preferred against the order dated 22.09.2014. The Writ Application has been dismissed. The learned Single Judge has refused to quash the proceeding under Rule 43(b) of the Bihar Pension Rules on the ground that the appellant had already superannuated and the matter related to the year 2001, much prior to the date of his superannuation.



3. In the narration of facts, what had transpired and had been observed in the previous round of litigation has been extracted and reproduced in the impugned order by the learned Single Judge. In other words, this is not the first round of litigation which was initiated before the learned Single Judge but is a continuance of the previous directions issued in the departmental proceeding. It is also reflected that a limited kind of remand was issued on the earlier occasion that was to provide a copy of the enquiry report and then proceed. The proceeding was initiated much much prior to the superannuation of the present appellant. After superannuation, the proceeding continued and the learned Single Judge rightly took note of the settled principle of law rendered by a Full Bench which was the case of **Shambhu Saran Vs. State, 2002 (1) PLJR 665**. There is no requirement for a separate proceeding to be initiated under Rule 43(b) of the Bihar Pension Rules. If a proceeding had been initiated prior to superannuation then automatically can be converted into a proceeding under Rule 43(b) of the Bihar Pension Rules and the same can be continued and finality reached.

4. It was in this background that the learned Single Judge did not find any infirmity with the proceeding and, therefore, refused to entertain the Writ Application or provide any relief.

5. The law being what it is, no infirmity emerges in the



impugned order of the learned Single Judge which requires rectification in appeal.

6. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.11.2017
Transmission Date	N/A

