

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.291 of 2016
IN
Civil Writ Jurisdiction Case No. 9040 of 2013**

=====

Shivrato Devi, Wife of Late Siyaram Chaudhary, Resident of C/o Sri Bhola Singh,
Village - Hanuman Nagar Milki Anaith, P.S. - Nawadah, District - Bhojpur (Bihar).

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer (Mechanical Gandak Project) Null Resources Department Government of Bihar, Patna.
4. The Superintending Engineer, (Mechanical Gandak Project), Muzaffarpur, District - Muzaffarpur.
5. The Executive Engineer (Field Mechanical Division, Water Resources Department, Gandak Project Scheme, Balmiki Nagar, West Champaran, Bettiah.
6. The Accountant General, Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ashok Kumar, Advocate

For the Respondent/s : Mr. S.D. Yadav, AAG-IX

Mr. Prem Ranjan Kumar, AC to AAG-IX

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-07-2017



Seeking exception to an order dated 13.05.2015 passed by the Writ Court in Civil Writ Jurisdiction Case No.9040 of 2013; this appeal has been filed under Clause 10 of the Letters Patent.

The writ petition in question was filed by the petitioner claiming salary in the revised pay scale of Rs.4000-6000 with effect from 01.01.1996. The writ petition was heard on 13.11.2013 and on the said day, the learned Court found that instead of meeting the contention of the State Government with regard to non-grant of pay scale, the counsel at the time of hearing was claiming gratuity which was not an issue raised in the writ petition. As the petitioner was not able to justify the claim for payment of salary, the writ petition was dismissed vide the aforesaid order dated 13.11.2013. However, against this order, a Letters Patent Appeal No.324 of 2014 was filed and on 15.12.2014, it seems that based on a supplementary affidavit, a prayer was made to say that the claim of the petitioner for payment of gratuity has not been considered even though it was raised in the writ petition. Taking note of the aforesaid, the matter was remanded back to the Writ Court and on remand, the writ court has again dismissed the writ petition on 13.05.2015 and it is observed that the question of payment of gratuity was never raised in the original writ petition but it was raised by way of supplementary affidavit without amending the prayer clause and finding that the claim for gratuity was never raised in the original writ petition,



the claim for grant of appropriate pay scale which has already been rejected, the Writ Court again dismissed the writ petition.

Taking note of the consideration made by the writ Court in detail in the impugned order passed on 13.05.2015, we see no reason to make any indulgence into the matter. The appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2017
Transmission Date	

