

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1025 of 2014
IN
SA 369 of 2000

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Lala Shashi Bhushan Prasad Verma, Son of Late Triveni Prasad, Ex-Assistant Accountant Officer, Resident of Road No. 9 (Last), South Ashok Nagar, Patna- 800 020.

.... Petitioner/s

Versus

1. Union Of India, through Shri Ajay Prasad, the Chief Secretary, Union Of India, Union Secretariat Building, New Delhi.
2. Mr. Arunabh Dutta, the Financial Advisor (Defence Service), Government Of India, Ministry Of Defence, New Delhi.
3. Mr. Shashi Kant Sharma, the Secretary, Ministry Of Defence, Government Of India, New Delhi- 11.
4. Mr. Vandana Srivastava, the Controller General Of Defence Account, R.K. Puram, West Block-V, New Delhi-32.
5. Mr. Rakesh Kumar, the Controller of Defence Accounts, Frazer Road, Patna- 19.
6. Sri S. Vishwanath, Joint Controller of Defence Accounts, Frazer Road, Patna.

.... Respondent/s

With

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Miscellaneous Jurisdiction Case No. 1943 of 2016

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Lala Shashi Bhushan Prasad Verma, Son of Late Triveni Prasad, Ex-Assistant Accountant Officer, Resident of Road No. 9 (Last), South Ashok Nagar, Patna- 800 020.

.... Plaintiff- Petitioner/s

Versus

1. Union of India, through the Chief Secretary, Union of India, Union Secretariat Building, New Delhi.
2. The Financial Advisor (Defence Services), Government of India, Ministry of Defence, New Delhi.
3. The Secretary, Ministry of Defence, Government of India, New Delhi- 11.
4. The Controller General of Defence Account, R.K. Puram, West Block-V, New Delhi-32.
5. The Controller of Defence Accounts, Frazer Road, Patna- 19.
6. Shri S. Vishwanath, Joint Controller of Defence Accounts, Frazer Road, Patna- 19.

.... Defendant-Respondent/s

With



Miscellaneous Jurisdiction Case No. 2496 of 2016

IN

SA 369 of 2000

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Lala Shashi Bhushan Prasad Verma, Son of Late Triveni Prasad, Ex-Assistant Accountant Officer, Resident Of Road No. 9 (Last), South Ashok Nagar, Patna-800 020.

.... Petitioner/s

Versus

- 1 Union of India, through the Chief Secretary, Union Of India, Union Secretariat Building, New Delhi.
2. The Financial Advisor (Defence Service), Government Of India, New Delhi-II
3. The Secretary, Ministry Of Defence, Government of India, New Delhi- 11.
4. The Controller General Of Defence Account, R.K. Puram, West Block-V, New Delhi-32.
5. The Controller Of Defence Accounts, Frazer Road, Patna- 19.
6. Shri S. Vishwanath, Joint Controller Of Defence Accounts, Frazer Road, Patna-19.

..... Respondent/s

With

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Appearance :

For the Petitioner/s : Mr. Lala Shashi Bhushan Prasad Verma (in person)

For the Respondent/s: Mrs. Punam Kumari Singh, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 23-05-2017

As common questions are involved in all these three cases filed by the applicant, who appears in person, they are being disposed of by this common order.

Applicant Sri Lala Shashi Bhushan Prasad Verma is a senior citizen and appears in person. He is a retired employee, was working in the Ministry of Defence, Government of India and was posted in the office of Controller of Defence Accounts, Patna.

Even though the matter is cognizable by a Bench of this Court presided over by a particular Judge, but in view of a detailed order



passed by the learned Judge on 08.03.2017 in all the three cases, matters were placed before me on the administrative side and looking to the nature of the dispute involved, I deem it appropriate to hear the applicant, who appears in person, and decide the matters.

The facts in nutshell, which are necessary for deciding the issue in question go to show that the applicant herein filed a suit bearing T.S. No.24/77/28/78 claiming certain reliefs relating to his service conditions under the respondent-Department. The reliefs claimed included consideration of his case for promotion, declaration of certain departmental proceedings initiated against him as illegal and further various reliefs, as are detailed in the suit in question. Be that as it may be, the suit was decided on 12.08.1978 and against judgment and decree passed in the Title Suit, two appeals were filed before the Additional District Judge X, Patna. Appeal No. T.A.190/78 was filed by the applicant and Appeal No. T.A.193/78 was filed by the respondent-Department. Both these appeals were decided by a common judgment and decree passed on 31.05.2000. The appeal filed by the applicant herein was partly allowed and the appeal filed the respondent-Department was dismissed.

Aggrieved by the judgment and decree passed by the Additional District Judge, two appeals, i.e. Second Appeal No.369 of 2000 was filed by the present applicant and Second Appeal No.73 of



2001 was filed by the respondent-Department. Both these appeals were heard analogously by a learned Judge of this Court and by a detailed order passed on 18.05.2012, the appeals were decided. The appeal filed by the applicant being Second Appeal No.369 of 2000 was allowed in part granting modified relief of compensation and certain benefits of consideration of permanency in service etc., and the appeal filed by the respondent-Department was dismissed.

After the matter so stood, the applicant filed a Civil Review No.387 of 2012 seeking review of the decree in Second Appeal No.369 of 2000. Records indicate that the same was withdrawn on 29.01.2014 and after withdrawal of the review application, the contempt case was filed being present MJC No.1025 of 2014.

It is alleged in the contempt application that the judgment and decree passed in the Second Appeal has not been complied with. The matter is being heard and monitored by the Bench. Show cause, additional show cause, affidavits and counter affidavits have been filed and according to the respondents, the orders have been fully complied with. However, apart from filing the aforesaid contempt application being MJC No.1025 of 2014, the applicant has also filed two other applications.

MJC No.1943 of 2016 is an application under Section 153 of the Code of Civil Procedure (hereinafter referred to as 'the CPC')



seeking modification of paras 20 and 21 of the judgment dated 18.05.2012 passed in Second Appeal No.369 of 2000 and the prayer made is that he is not entitled for compensation and wants determination of the issue and substantial question of service law as enumerated in the memorandum of appeal.

The other application being MJC No.2496 of 2016 is again filed by the applicant purportedly under Order 21 Rule 101 CPC seeking determination of the adequacy of the compensation granted by the respondents to the tune of Rs. 4020/- in compliance to the judgment and decree passed in Second Appeal No.369 of 2000 and further prayer made is to determine reasonability of the decree passed in his appeal.

While the three cases were being heard analogously by the learned Judge, who had decided the second appeals, it seems that on 04.03.2017, the applicant sent a registered letter which was received by the Secretary of the learned Judge and in the communication made, petitioner sent a notice under Section 80 CPC to the learned Judge concerned making various allegations which can be termed as derogatory scandalous in nature. Copies of the letters were also sent to the Chief Justice of India and the Secretary, Government of India, Ministry of Law Justice. It was after taking note of this letter and various factors that the learned Judge recused from the matters and the cases are placed today before this Court for consideration.



Today, when the matters were taken up and when the applicant was informed about the limited jurisdiction of this Court under Section 153 CPC and Order 21 Rule 101 CPC and the fact that in a decree passed, which can be executed a contempt application is not maintainable in view of the judgment rendered by the Supreme Court in the case of **Modern Food Industries (India) Ltd. and another Versus Sachidanand Dass and another** [1995 Supp (4) SCC 465], the applicant made a prayer to say that he is frustrated, his appeal has not been properly decided and he indicated that he is unable to take recourse of approaching the Hon'ble Supreme Court due to lack of finance and his economic condition.

With regard to his communication, applicant was not willing to withdraw the same. However, after considering the totality of the circumstances, the advance age of the petitioner and the fact that he seems to be in a state of frustration because of the judgment, it is not appropriate to initiate any coercive steps against him. That apart, as the prayer made in the applications under Section 153 CPC and Order 21 Rule 101 CPC are, in fact, not the proper remedy of seeking benefit as are canvassed in the applications, the applicant, if advised, should approach the Hon'ble Supreme Court and challenge the judgment and decree passed in the Second Appeal in case he has any grievance in the matter and to enable him to seek legal assistance. It is directed that in



case, the applicant seeks assistance for filing an appeal before the Supreme Court, moves appropriate application along with a copy of this order, the Member Secretary, Bihar State Legal Services Authority shall do the needful with regard to providing legal assistance to the applicant in accordance with law.

Having considered the totality of the circumstances and heard the applicant, who is appearing in person, at length today and in the peculiar facts and circumstances, looking to the advance age of the petitioner, this Court does not deem it appropriate to initiate any proceedings against him, however he is advised to be careful in future.

As far as the applications under Section 153 CPC and Order 21 Rule 101 CPC are concerned, the same are beyond the jurisdiction of this Court to review/recall or pass orders as prayed for once the Second Appeal No.369 of 2000 has been decided by a reasoned order. The applicant also made a prayer that if that be so, he be granted liberty to challenge the judgment and decree passed in the Second Appeal. He is at liberty to do so and in accordance with law can always challenge the same before the Hon'ble Supreme Court, if permissible in law. The prayer made in the MJCs, i.e. applications under Section 153 CPC and Order 21 Rule 1010 CPC being beyond the jurisdiction and power of this Court cannot be acceded to.



In the light of the aforesaid, the entire three applications/petitions stand disposed of.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2017
Transmission Date	

