IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1491 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 4275 of 2015

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Dr. Baijnath Prasad Son of Late Ram Lakhan Lal, R/o of 107, Rajendra Nagar, Road No. 4, P.S. - Kadam Kuan, Patna.

.... Appellant/s

Versus

1. The State of Bihar, through Principle Secretary, Health Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Joint Secretary, Health Department, Government of Bihar, Patna. null null
4. The Deputy Secretary, Health Department, Government of Bihar, Patna
5. The Accountant General, Bihar Patna.

.... Respondent/s

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Appearance :
For the Appellant/s : Ms. Soni Shrivastava, Advocate
: Ms. Pallavi Pandey, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 02-02-2017

Re: Interlocutory Application No. 6656 of 2015:

The application is for condonation of delay of 2 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

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Re: Letters Patent Appeal:

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench on 18th May, 2015 whereby the writ application filed by the appellant was dismissed on the ground of delay and laches.

The appellant claimed promotion on the post of Professor from the date of joining on 15th May, 1997 under working arrangement and to give all consequential financial benefits. The appellant claims that similar benefits have been granted to other Associate Professor, therefore, the appellant is entitled to the same benefit.

It was a working arrangement made by the respondents on 15th May, 1997 when the appellant was asked to discharge the duty of Professor in his own pay scale as that of Associate Professor. The appellant attained the age of superannuation in the year 2002. It is thereafter, in the year 2015 the appellant has filed the present writ petition claiming regular promotion and also financial benefits. The learned Single Bench has rightly dismissed the writ petition on the ground of delay and laches as the claim pertains to the period 1997 and that the appellant has attained the age of superannuation in the year 2002.

The entire argument of the appellant is based upon

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an order passed by this Court in CWJC No. 9377 of 2013 (Dr. Abdul Quashim Siddiqui Vs. The State of Bihar & Ors.) on 02.09.2014 wherein the said applicant was granted the benefit as was granted to one Dr. Upendra Prasad Singh in the earlier round of litigation. Both the cases appear to be of the faculty who continued to be in service but not a person who has attained the age of superannuation.

In view of the said fact, a person who is not in service cannot be granted promotion when earlier arrangement was only an officiating process. In view thereof, we do not find any merit in the present Letters Patent Appeal. The same is thus dismissed.

(Hemant Gupta, ACJ.)

S.Pandey/-

(Sudhir Singh, J.)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.02.2017
Transmission Date	NA

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