

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2244 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 186 of 2014**

- =====
1. The State of Bihar
 2. The Principal Secretary, Department of Planning and Development,
Government of Bihar, Patna
 3. The Director, Statistics and Evaluation Directorate, Old Secretariat, Patna
 4. The Finance Commissioner, Government of Bihar, Patna

.... Appellant/s

Versus

Yogendra Paswan, Son of Late Jageshwar Paswan, Resident of Quarter No. J.K.S.,
E - 56, Mohalla - Old Jakkanpur, P.S. Jakkanpur, District - Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jitendra Kumar, A.C. to AAG-14
Mr. Durgesh Nandan, AAG-14
For the Respondent/s : Mr. S.C. Jha, Advocate
Mr. Shambhoo Kumar Suman, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-04-2017

Considering the fact that the respondent employee
continued to work as Superintendent (Typist) and retired while so
working merely because there was an office order passed for directing



him not to work on the post of Superintendent (Typist) if it was not implemented, the learned Writ Court has rightly held that the confusion has been created by the State Government itself inasmuch as the respondent employee was permitted to work as a Superintendent (Typist) and retire.

2. Taking note of all these factors, the learned Writ Court has remanded the matter back to the State Government for considering granting of a suitable replacement scale to the writ petitioner in accordance to the following direction:-

“Since the counter-affidavit of the State is in similar as Annexure-1 and Annexure 1’s logic is flawed therefore Annexure-1 is quashed. The matter is remitted to the authorities to take a fresh decision, keeping in mind that the petitioner cannot be relegated to any other post, but will continue to hold the post of Superintendent (Typist) as a deeming fiction till he superannuated and he will get the suitable replacement scale as an aberration rather than as a rule. The decision in this regard must be taken in the uniqueness of the facts to extend the benefit to the petitioner within a period of three months from the date of production of a copy of this order.

The writ application is allowed”

3. We see no error in the same warranting



reconsideration.

4. We are informed during the course of hearing that after reconsideration appropriate orders have also been passed by the State Government. Taking note of the aforesaid, no case is made out now for any further indulgence.

5. The Letters patent Appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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