

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1915 of 2015
IN
Civil Writ Jurisdiction Case No. 11887 of 2010**

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Gopal Dutt Shukla Son of Late Ram Nath Shukla resident of Village - Bagoara,
P.S. - Daroando, District - Siwan.

.... Appellant

Versus

1. The Bihar State Road Transport Corporation through its Administrator.
2. The Administrator, Bihar State Road Transport Corporation Pariwahan Bhawan, Veerchand Patel Path, Patna.
3. The Chief of the operation then Sri Sashi Ranjan Prasad Singh, the Bihar State Road Transport Corporation Parivahan Bhawan, Veerchand Patel Path, Patna.
4. The Ex-Chief of the Administration Sri Sukhdeo Choudhary B.S.R.T.C. Patna.
5. The Divisional Manager, Muzaffarpur, Division B.S.R.T.C.
6. Sri G.S. Kang, Ex Administrator, B.S.R.T.C., Patna.
7. Sri Dilip Kumar Verma then the Divisional Manager Muzaffarpur, Division Bihar State Road Transport Corporation.

.... Respondents

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Appearance :

For the Appellant : Mr. Arvind Prasad Singh, Advocate
For the Respondents : Mr. Prabhat Kumar Verma, Senior Advocate
Mr. Suman Kumar Jha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-01-2017

I.A. No. 8570 of 2015, which is for condonation of seven days delay, is allowed for the reasons indicated in the condonation petition.

The order dated 10.05.2015 passed by the learned single Judge in C.W.J.C. No. 11887 of 2010 is subject matter of challenge in the Letters Patent Appeal.

The learned single Judge after considering the fact and



submission of the counsel for the appellant as well as the Bihar State Road Transport Corporation (hereinafter referred to as 'the BSRTC') dismissed the writ application and refused to give any kind of relief or direction for payment of back wages between 08.10.2004 to 28.11.2007.

The relevant facts are that the petitioner was a Conductor working under the BSRTC. After perusal of his service records, the Administrator decided to compulsorily retire him from service. The appellant aggrieved by such a decision approached the High Court by filing a writ application. The learned single Judge did not interfere with the order of compulsory retirement and dismissed the writ application.

An intra-Court appeal was moved by the appellant in which also no interference was made. Seeing the resistance from the Division Bench, a tactical move of withdrawing the appeal for filing a review was prayed for, which was allowed. The review application also did not beget any interference. In other words, the order of compulsory retirement remains and it had a seal of approval of judicial kind.

The Court is not required to go as to the reason why the Administrator suddenly decided to withdraw the order of compulsory retirement on 28.11.2007. May be the mercy kind of appeal made by



the appellant moved the authorities to give him yet another opportunity or chance.

Taking the above facts into consideration, the learned single Judge decided to dismiss the writ application refusing to give any back wages to the appellant on the ground that since the order of compulsory retirement was held to be good and a subsequent decision of the Administrator restored the appellant back into service, the period of his removal cannot be termed to be illegal or irrational which is required to be compensated by payment of back wages.

The submission of counsel for the appellant that if the order of compulsory retirement was quashed by the Administrator subsequently, then his past is obliterated and wiped out clean, therefore, he must get his rightful dues of back wages. In addition to that there is also an observation that the BSRTC is in dire financial condition, therefore, it cannot be possible to impose additional burden of payment of back wages.

The Court is not very impressed with the second part of the observation of financial distress. What is of relevance is whether the appellant was legally entitled for the back wages for the period of removal. If his compulsory retirement was upheld by the High Court and was not interfered with even at the level of the appellate Court



then that removal was held to be valid. A valid removal, therefore, cannot be rewarded by payment of back wages merely because the appellant was restored back in service by an independent decision to recall the order of compulsory retirement.

The learned single Judge committed no mistake in passing the order and refusing to issue any direction for back wages.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.01.2017
Transmission Date	N/A

