

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.119 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 15294 of 2011**

=====

Badama Devi @ Badma Devi Wife of Late Sheo Narain Prasad Gupta Resident of
village - Mahajan Tola Sultanganj, Police Station and post office Sultanganj,
District - Bhagalpur

.... Appellant/s

Versus

1. The Union of India through Ministry of Home Affairs, New Delhi
2. The Accountant General, Ranchi, Jharkhand
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
4. The Secretary, Department of Finance, Government of Bihar, Patna
5. The Treasury officer, Bhagalpur

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sandeep Patil, Advocate

For the Respondent/s :

=====

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

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 20-01-2017

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 31st of July, 2015
whereby, the writ application was dismissed on the ground of delay
and laches.

2. The freedom fighters' pension payable to the
husband of the petitioner was cancelled on 4.1.1996. But the
appellant chose to dispute the order of cancellation of freedom
fighters' pension only in the writ petition in the year 2011.
Therefore, the learned Single Bench has not erred in law in declining



to interfere in such a matter.

A perusal of the record shows that the appellant filed a writ application before this Court in the year 2006, but without disclosing that pension stands cancelled. There was direction to decide the claim of the appellant. In the contempt petition bearing M.J.C. No.386 of 2010 (Annexure-8) on account of non compliance of the said order, the Court found that the order was passed by this Court in C.W.J.C. No.5328 of 2006 without being informed that the freedom fighters' pension was cancelled in the year 1996 as the said writ application was decided on the very first day. In view of the said fact, this Court found that there is no violation of the directions of this Court. The Court recorded the following finding:

“ From the reading of the aforementioned order, it is more than clear that this Court had neither adjudicated the matter on merits nor had held the petitioner or her husband entitled for payment of freedom fighter pension and had simply directed the authority including the Treasury Officer to verify the fact as with regard to fulfillment of the terms and conditions of the sanction order of freedom fighter pension dated 1.5.1989. Therefore, once this Court would now find that the order of sanction of freedom fighter pension of the husband of the petitioner dated 1.5.1989 had already been rescinded in the year 1996, there would be no question of compelling the opposite parties to make payment of such amount in this contempt application inasmuch as no such direction was given in the connected writ application.”

3. We do not find any merit in the present Letters



Patent Appeal inasmuch as in a writ application, filed in the year 2006, the appellant has not challenged the order of suspension of pension. In view of the fact that such order of suspension was not disputed in the writ petition, the appellant, therefore, cannot be allowed to dispute such order still six years later in the present writ applciation.

4. Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.01.2017
Transmission Date	N/A

