

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.203 of 2015
IN
Civil Writ Jurisdiction Case No. 15350 of 2013**

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Kishor Prasad, Son of Late Shyam Bahadur Prasad, At Present resident of Flat No.201, Block-A Jagmano Shree Apartment, Ara Garden Road, Bailey Road, P.O.- B.V. Collecge, P.S.- Rupaspur, Town & District-Patna-14.

.... Appellant/s

Versus

1. Tilkamanjhi Bhagalpur University, Bhagalpur through its Registrar, P.S. - Kotwali (Vishwa vidyalay), Town & District- Bhagalpur-7.
2. The Vice-Chancellor, T.M. Bhagalpur University, Bhagalpur, P.S.- Kotwali (Vishwa Vidyalaya), Town & District- Bhagalpur-7
3. The Registrar, T.M. Bhagalpur University, Bhagalpur through its Registrar, P.S.- Kotwali (Vishwa Vidyalaya), Town & District- Bhagalpur-7
4. The State of Bihar, through the Principal Secretary, Finance Departments, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar Ms. Miki Singh
For the University : Mr. Anjani Kumar, Sr. Advocate
Mr. Shailendra Kumar Singh
For the State : Mr. Sanjay Pandey, GP 21

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 21-08-2017

Seeking exception to an order dated 03.11.2014 passed
by the learned Writ Court in CWJC No. 15350 of 2013 this appeal



has been filed under Clause 10 of the Letters Patent.

Appellant's father Late Shyam Bahadur Prasad was working in the University in question and while he was alive he initiated a proceeding claiming grant of post-retirement benefits. After his death, the present petitioner-son started to prosecute the matter and finally in LPA No.28 of 2008 directions were issued by this Court for settling the claim of petitioner's father. The claim was settled and thereafter claiming damages on account of delay in settlement of the claim, the petition in question was filed. The Writ Court examined the matter and after considering various aspects of the matter recorded the following findings and dismissed the writ petition:-

“In view of the same, the only amount which is required to be paid now is Rs.48, 127/-, which will be paid in the next financial year after the money is released by the State Government in this regard. Merely because there are high sounding principles, which have been quoted in the writ application and also series of decisions which are unnecessary and irrelevant in context of this writ application, it does not become a case that an exemplary order of compensation is required to be issued on the respondent-university-authorities.

Writ application is dismissed with a direction upon the respondent-university-authorities to ensure



payment as indicated in the counter affidavit in the next financial year.”

So far as the claim for cost and damage is concerned, even though the learned counsel for the appellant vehemently argued that in view of the default committed by the respondents, appellant’s fundamental right to receive the amount entitled after the death of his father has been delayed and by placing reliance on the judgments rendered by the Supreme Court in **Nilabati Behera vs. State of Orissa (AIR 1993 SC 196)** and **D K Basu vs. State of West Bengal (AIR 1997 SC 610)**, argued that the appellant is entitled to exemplary damages for the fundamental right violated.

We find that that all these judgments will not apply in this case. Once in LPA No. 28 of 2008 the only direction issued was to settle the pensionary claim of the appellant, the appellant at best could claim interest on the delayed payment and settlement of pensionary claim and nothing more. In the matter of pensionary claim to the legal heir of a deceased employee, we are not inclined to grant any damages or compensation on account of the fact that there was delay in settling the claim. The delay may entitle the legal heir to claim interest on the amounts but no damages or compensation.

Accordingly, we are of the view that the learned Writ



Court has not committed any error by rejecting the claim of the petitioner.

Accordingly, this appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
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