

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1544 of 2016
with
I. A. No.6109 of 2016
In
Civil Writ Jurisdiction Case No.4503 of 2004

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Lakshman Mishra, son of Late Kusheshwar Mishra, resident of village Chandauna, P.S.- Jalley, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Secretary-cum- Commissioner, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. Sri Arun Chandra Mishra, Under Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
4. The Chief Engineer, Water Resources Department, Samastipur.
5. The Superintendent Engineer, Flood Control Circle, Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Patanjali Rishi
For the Respondent/s : Mr. Rajeshwar Singh, GA 10

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 29-11-2017

Heard learned counsel for the appellant as well as learned counsel representing the State.

I. A. No.6109 of 2016 has been filed for condonation of delay of 7 years and 252 days in filing of the present Letters Patent Appeal. The reason for delay as shown in the condonation application is the previous round of litigation, which is said to



have travelled upto the Hon'ble Supreme Court and was finally dismissed as withdrawn with liberty to file LPA against original order passed in the writ application. The order of the Hon'ble Supreme Court is dated 16.10.2015. Thereafter, the present LPA has been filed with a further delay showing a reason that the appellant came to know about dismissal of the SLP only on 10.07.2016.

We are not at all satisfied with the reason shown for purpose of condonation of huge delay in filing of the Letters Patent Appeal, still in the interest of justice, we have gone through the impugned order also just to find out as to whether it raises any serious question of law, which will require a consideration.

From the impugned order it appears that as back as 12.01.2004, the appellant was reverted to the work charge establishment because it was found that his entry into the regular cadre of Class III post in the Water Resources Department from the work charge establishment where he was serving as a Class IV was wholly illegal and the same was in violation of the principles enunciated under Articles 14 and 16 of the Constitution of India. Since the very entry of the appellant was in violation of the said Articles 14 and 16 of the Constitution of India, following the Full Bench judgment of the Hon'ble Supreme Court in the case of



Secretary, State of Karnataka Vs. Uma Devi, reported in (2006) 4 SCC 1, the learned Single Judge held that in the facts of the case, no relief could be granted to the petitioner. We are satisfied that even on merit, no interference is required as no illegality or infirmity may be found with the order of the learned Single Judge.

The application for condonation of delay is, therefore, rejected, so is the appeal as a consequence thereof.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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