

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.640 of 2017
In
Civil Writ Jurisdiction Case No.17553 of 2016

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1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
 2. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
 3. The Chief Engineer, Rural Works Department, Patna.
 4. The Superintending Engineer, Rural Works Department, Circle-2, Patna.
 5. The Executive Engineer, Rural Works Department, Work Division-2, Biharsharif, District- Nalanda. 6. The Special Work Officer, Rural Works Department, Biharsharif, Patna.

... .. Appellants

Versus

Uday Singh, Son of Late Kedar Singh, Resident of Village- Bara, P.S.- Khizarsarai, District- Gaya (Bihar) at present Resident of Village- Chak Bairiya, P.O.- Bairiya, P.S.- Gopalpur, District- Patna (Bihar).

... .. Respondent

Appearance :

For the Appellant/s : Mr. Anshuman Singh, AC to AG
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 20-04-2018

Heard counsel for the State. Perused the order dated 17.01.2017 passed by a learned single Judge in C.W.J.C. No. 17553 of 2016, which is under appeal.

The learned single Judge allowed the writ application and quashed the decision of the Engineer-in-Chief, Rural Works



Department, Government of Bihar, wherein, in exercise of power vested under Rule 43(a) of the Bihar Pension Rules, 1950, 100% pension of the private respondent was withheld.

The learned single Judge taking note of the pleadings and assertions even on behalf of the State before the writ Court took note of the fact that the private respondent retired in the year 2009, a show cause was issued to him on 11.02.2009, but nothing more happened thereafter. After four years of his retirement, when the master servant relationship stood fully severed, a decision to withhold 100% pension as taken by the Engineer-in-Chief.

Taking note of the Full Bench decision in the case of *Shambhu Saran Vs. State*, reported in **2000 (1) PLJR 665**, the learned single Judge has rightly quashed the said order because no power is vested to act against a retired government servant four years after his superannuation.

If the State was serious about dealing with such matters, not only they should have acted within time and within the time frame of law but also fix responsibility upon such people who delayed issuance of charge-sheet after four years of retirement. There is no explanation coming from the State as to why they waited for four years knowing fully well that the rigors of law will set in.



Appeal is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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