

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1108 of 2017

In

Civil Writ Jurisdiction Case No.19787 of 2014

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Dr. Mohd. Khalil Ansari, son of Late Abdul Latif Ansari, Resident of Village -
Dhangarha, P.S. - Baniyapur, District - Saran, presently residing at A - 41,
Gandhi Bihar, Anisabad, P.S. - Gardanibagh, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Joint Secretary, Department of Health, Government of Bihar, Patna.
4. The Under Secretary, Department of Health, Government of Bihar, Patna.
5. The Director, Desi Chikitsa (now AYUSH), Department of Health,
Government of Bihar, Patna.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Vivek Anand Amritesh, Advocate

For the Respondent/s : Mr. Suryadeo Yadav-AAG-9

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-10-2018

1. Admit.

2. Shri Suryadeo Yadav, learned Additional

Advocate General-9, waives service of notice of admission on

behalf of the State-respondents.

3. In the facts and circumstances of the case and
with the consent of the learned counsel appearing on behalf of
the respective parties, the present appeal is taken up for final
hearing today.

4. Feeling aggrieved and dissatisfied with the



impugned order passed by the learned Single Judge dated 01.07.2017, passed in Civil Writ Jurisdiction Case No.19787 of 2014, the original writ petitioner has preferred the present Letters Patent Appeal.

5. Heard learned counsel appearing on behalf of the respective parties, perused and considered the impugned order passed by the learned Single Judge.

5.1 At the outset, it is required to be noted that after the original writ petitioner was compulsorily retired by way of penalty after holding departmental enquiry and he was not paid pension and pensionary benefits, he approached this Court by way of Civil Writ Jurisdiction Case No.19787 of 2014 which has been disposed of by the learned Single Judge by the impugned order.

5.2 Having heard learned advocates appearing on behalf of the respective parties and on perusal of the impugned order, it appears that the learned Single Judge has not at all considered the merits of the case and has not decided the petition on merits in which one Rule 46A of the Bihar Pension Rules is required to be considered in detail. As the impugned decision is not on merits and the learned Single Judge has not decided the matter on merits at all, we set aside the impugned



order passed by the learned Single Judge and remand the matter to the learned Single Judge for fresh consideration and to decide and dispose of the writ petition in accordance with law and on merits. It is observed that if at all the original writ petitioner has challenged his order of compulsory retirement before this Court, the present petition on remand be heard along with the said petition.

6. With this, the present Appeal stands allowed to the aforesaid extent. No costs.

(Mukesh R. Shah, CJ)

Sunil/-

(Ashutosh Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2018
Transmission Date	

