

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.874 of 2015

In

Civil Writ Jurisdiction Case No.23373 of 2011

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1. The Commissioner, Patna Municipal Corporation, Patna.
 2. The Executive Officer, Water Supply Branch, Patna Municipal Corporation, Patna.
 3. The Chief Engineer, Water Supply Branch, Patna Municipal Corporation, Patna

... .. Appellant/s

Versus

1. Ruby Prasad w/o Late Ajay Kumar Sinha, resident of Mohalla - Dr. Rameshwar Dayal Path, Boring Road, P.S.- Sri Krishna Puri, District - Patna.
2. The State of Bihar through Chief Secretary, Old Secretariat Patna.
3. The State of Bihar through Principal Secretary, Department of Urban Development and Housing, New Secretariat, Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr Bindhyachal Singh, Advocate
Mr. Ranjeet Kumar Pandey, Advocate
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 18-01-2018

A frivolous appeal has been preferred on behalf of the Patna Municipal Corporation against the order of the learned Single Judge dated 18.03.2015. The reason for saying so is that it is the Corporation, which had hired the erstwhile employee, Ajay Kumar Sinha, as an Assistant Engineer and he worked under the organization for 28 long years. He is dead now and has been substituted by his widow.



The erstwhile employee preferred the writ application for grant of benefit of 1st and 2nd Assured Career Progression (ACP). Since this is an anti stagnation scheme, therefore, the prayer was made.

Before the learned Single Judge, a plea was taken that his appointment itself is myriad in controversy. His services were never regularized or confirmed and, therefore, a stand was taken that the benefit of ACP can only accrue to a permanent / substantially appointed employee.

The learned Single Judge has taken note of the fact that the employee in question worked under the organization for 28 long years, he superannuated, he has been paid all his post retiral dues and even during the period of service, he had earned his increments and other benefits, which a regular employee is entitled.

It is too late in the day, therefore, to make out a case that when it comes down to grant of benefit of ACP, it cannot be extended in the given facts.

We do not agree with the argument of the learned counsel representing the Corporation. The facts speak of itself. For the adhocism prevailing in the Corporation, a citizen cannot be made to suffer. He has served the organization uninterruptedly for 28 years and has now superannuated and is now dead. He has not earned promotions in terms of the anti stagnation scheme then there is no reason why the benefit of ACP will not be extended to him.



After the above, counsel for the Corporation submits that in the concluding part of the order, the learned Single Judge has been a little harsh in not only giving a direction for payment of 8.5% interest per annum for non- grant and payment of ACP but has also imposed a cost of Rs.50,000/-.

We can well appreciate the reason why the learned Single Judge has given a direction for payment of interest and also imposed cost.

However, since the primary object behind the judicial adjudication was to extend the benefit to the citizen, which has already been extended, therefore, the order of the learned Single Judge dated 18.03.2015 is not interfered with. The appeal is dismissed.

So far as payment of cost of Rs.50,000/- is concerned, the cost is reduced to Rs.25,000/-, which will be recovered in terms of the direction of the learned Single Judge.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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