

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1706 of 2016

In
Civil Writ Jurisdiction Case No.9321 of 2014

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1. The State of Bihar.
 2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 3. The Joint Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 4. The Deputy Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 5. The Under Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 6. The Chief Engineer, Public Health Engineering Department (Civil), Government of Bihar, Patna.
 7. The Superintending Engineer, Public Health Engineering Department, Purnea Circle, Purnea.
 8. The Executive Engineer, Public Health Division, Araria.
 9. The Grievance Redressal Committee of the Public Health Engineering Department, Government of Bihar, Patna through its Chairman.
 10. The Chairman, The Grievance Redressal Committee of the Public Health Engineering Department, Government of Bihar, Patna.

... .. Appellants
(Respondents 1 to 8, 11 and 12 in writ)

Versus

1. Ekramul Hasan Son of Late Ibnul Hasan resident of Mohalla : Kashipur, P.O., P.S. and District : Samastipur, Presently residing at New Beauty Manjil, Azad Nagar, Ward No. 19, Araria, P.O., P.S. and District : Araria.
...Respondent 1 herein
(writ petitioner)
2. The Jila Parishad, Araria through its Chairman
3. The Chairman, Jila Parishad, Araria.

... Respondents 2 & 3
(Respondents 9 and 10 in the writ)

Appearance :

For the Appellant/s : Mr. Kumar Ravish
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)



14 28-08-2018

Re: I.A.No. 7173 of 2016

This interlocutory application is filed for condonation of delay of one year and 128 days in filing the appeal.

We have heard Mr. Kumar Ravish, learned AC to GA-1 in support of the petition for condonation of delay which though purports to explain the delay, but at the same time also informs that the dues admissible to the petitioner under the order of the learned Single Judge passed in CWJC No. 9321 of 2014 which is put to challenge herein, has been paid. It is the submissions of the appellants that the judgment of the learned Single Judge was passed on the writ petition on 23.03.2015 and on being considered at different stages that the departmental Principal Secretary took a decision on 11.04.2016 for filing the appeal and thereafter it was filed on 29.08.2016.

Having heard learned counsel for the appellants, the following aspects of the matter does not persuade us to either condone the delay of one year and 128 days or grant indulgence on merits of the appeal and which are as follows:-

(a) In the nature of the order passed by the learned Single Judge in directing the respondents to consider the claim of the respondent-petitioner, for passing order thereon, it cannot give a cause of action for the appellant-respondents.



(b) The explanation given in the condonation application itself is demonstrative of the laches and laid-back attitude with which the appeal is filed because an innocuous direction passed by the learned Single Judge for examining the claim of the respondent-writ petitioner, it took over a year for the file to move on the issue and when a decision was taken by the Principal Secretary on 11.04.2016, but the laches do not stop here and it has taken a further two months for filing the appeal.

(c) It is on examining the claim and pending decision on the filing of the intra-Court appeal that the payment has been made to the respondent-writ petitioner.

(d) It is not disputed that the allocation of Jharkhand cadre to the respondent-writ petitioner was objected to by the writ petitioner and which ultimately resulted in his re-allocation to the Bihar cadre. This exercise consumed a period of almost three years and in between this period the respondent-writ petitioner continued to serve the State of Bihar in the Zila Parishad, Araria. In these undisputed circumstances noted, if a decision is taken for payment of salary, taking note of the services rendered by the respondent-writ petitioner, which is duly certified by the Chief Executive Officer, Zila Parishad,



there can be no occasion for any interference therewith.

For the reasons so discussed, we are pleased to reject the condonation application as not being explanatory enough for condonation of delay. I. A. No. 7133 of 2016 is rejected.

Consequently, the Letters Patent Appeal is dismissed.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

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