

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1316 of 2017

In

Civil Writ Jurisdiction Case No. 5269 of 1997

With

Interlocutory Application No. 6961 of 2017

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1. The State Of Bihar
2. The Secretary Water Resources Department, Government of Bihar, Patna.
3. The Director, Revenue Administration Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
4. The Under Secretary to Govt. Water Resources Department Government of Bihar Sinchai Bhawan, Patna.
5. The Engineer-in-Chief, Water Resources Department, Govt. of Bihar, Patna.
6. The Chief Engineer, Water Resources Department, Motihari.
7. The Superintending Engineer Gandak Design and Quality Control Circle Water Resources Department Motihari.

.... Respondents / Appellants

Versus

1. Bachhan Prasad Son of Sumeshwar Prasad at present account Clerk (under suspension) Sikrahana Embankment Division, Water Resources Department, Motihari.
2. Binod Prakash Singh Son of late Hiranand Prasad at present Accounts Clerk (under suspension) Champaran Division Motihari Water Resources Department Motihari, Government of Bihar.
3. Hardeo Prasad Singh son of Sri Shyam Sunder Prasad Singh at present posted as Chairman (under suspension) Revenue Division Gandak Project Motihari.
4. Surendra Dubey Son of Late Yogendra Dubey at present Treasure Guard (under suspension) Champaran Division Motihari.

.... Petitioners / Respondents

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Appearance:

For the Appellant/s : Mr. Nirmal Kumar Sinha 3, Advocate.

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 12-02-2018

Seeking exception to an order passed on 21.07.2014 in

CWJC No. 5269/1997 this appeal has been filed under Clause 10

of the Letters Patent and there being a delay of more than 3 years



and 31 days I.A. No. 6961/2017 has been filed seeking condonation of the delay.

From the averments made in the application for condonation of delay and the supplementary affidavit dated 21.11.2017 it is seen that earlier against the impugned order passed on 21.07.2014, after a delay of more than 4 months, an LPA was filed with Token No. 21711 on 27.03.2015. The office pointed the defects to the appellant on 03.04.2015 and he was required to remove the defects within one week. Nothing was done and the matter was kept pending from 03.04.2015. As the defects were not removed the appeal stood dismissed without its registration and, now after a period of more than 3 years, this fresh LPA has been filed pointing out that after taking note of the defects pointed out on 03.04.2015 another LPA was filed by Token No. 2177. The above file was misplaced and now the present appeal has been filed after obtaining proper sanction.

Learned counsel for the respondents vehemently opposed the prayer made and argued that in view of the negligence and recklessness on the part of the departmental authorities now indulgence into the matter should not be granted preferably when the petition was of the year 1997 and the incident which resulted in action taken was of January, 1996. It is further pointed out that



in the departmental proceeding initiated no action was taken. Petitioners were permitted to superannuate and the Writ Court has only directed that in view of the superannuation and in view of the fact that notional promotion given were taken they should be entitled to promotion during their tenure.

Taking totality of the circumstances and the manner in which the matter with regard to notional promotion and refusal of pension have been dealt with by the State Government, we see no reason to make any indulgence and condone the delay.

Accordingly, the appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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