

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.668 of 2017

IN

Civil Writ Jurisdiction Case No. 8001 of 2007

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Rameshwar Pandey, Son of Late Mahangu Pandey, F-103, P.C.
Colony, Kankargabh, P.S.-Kankarbagh, Patna-800020.

.... Petitioner/Appellant

Versus

1. The State of Bihar through Commissioner-Cum-Secretary,
Department of Industries, Govt. of Bihar Vikas Bhawan, Patna.
2. The Chairman, Finance (Bureau of Public Enterprises)
Department, Bihar Old Secretariat, Patna.
3. The Director of Industries, Bihar Vikas Bhawan, Patna.
4. Bihar Industrial Area Development Authority through its
Chairman, Indira Bhawan, Patna, now, Udyog Bhawan, Patna.
5. The Managing Director, Bihar Industrial Area Development
Authority, Indira Bhawan, Patna, now, Udyog Bhawan, Patna.

.... Respondents

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Appearance :

For the Appellant : Mr. Rameshwar Pandey, Advocate

For the State : Mr. Yogendra Prasad Sinha, A.A.G.-7

For the BIADA : Mr. Lalit Kishore, A.G.

Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT & ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date: 26-09-2018



The appellant is aggrieved by the judgment and order dated 07.03.2017 passed by the learned Single Judge in C.W.J.C. No. 8001 of 2007, whereby the prayer made on behalf of the appellant (original writ-petitioner) seeking a direction for payment of salary for a period of four months, ranging from March to July, 1988, as well as for an additional payment of 20% for his having performed additional duties from time to time, has been rejected.

2. The appellant superannuated on 31.01.1994 from the post of Assistant Development Officer from Bihar Industrial Area Development Authority (*in short the **BIADA***).

3. The appellant, after his superannuation, preferred a writ petition *vide* C.W.J.C. No. 203 of 1996 for the same relief, *viz.*, payment of salary for four months from March to July, 1988 and an additional payment of 20%, in which, a direction was given to him to make a representation before the concerned authority. After the claim of the appellant was rejected by the competent authority, he again came before this Court *vide* C.W.J.C. No. 12543 of 2002, wherein the order passed by the competent authority, rejecting the claim of the appellant, was set-aside as being a non-speaking order and he was directed to appear before the Managing Director, BIADA (respondent No. 5 herein), who was required to pass a reasoned order after taking into



account the submissions offered on behalf of the appellant.

4. By order dated 06.05.2005, the Managing Director, BIADA, after taking into account the materials on record, came to the view that the appellant himself had offered that the amount which is due from him could be recovered from his gratuity. The evidence on record further disclosed that certain amount was due as against the appellant. So far as the issue of additional payment was concerned, the Managing Director, BIADA came to the conclusion that the responsibility which was given to the appellant was not of any independent post, but was connected with the extension of industries, which was the cognate work of the appellant. Hence, he was found to be not entitled for any additional payment.

5. The learned Single Judge, after going through the entire materials on record, came to the conclusion that there was no dispute with respect to the finding of the Managing Director, BIADA that the appellant himself had asked for the money due against him to be realized from gratuity and that additional pay was not admissible to him under Rule 103 of the Bihar Service Code.

6. The findings and the views of the learned Single Judge is neither erroneous nor perverse warranting any interference. The appellant has retired in the year 1994 and



the present claim, apart from the same being not maintainable, also appears to be highly belated.

7. We have not been persuaded to interfere with the judgment and order passed by the learned Single Judge dated 07.03.2017.

8. The present Letters Patent Appeal is, accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Praveen-II/-

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