

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1065 of 2013
IN
Civil Writ Jurisdiction Case No. 5520 of 2006**

- =====
1. The Managing Director, Patliputra Central Co-Operative Bank Limited, Madandhari Bhawan, S.P. Verma Road, Patna
 2. The Chairman, Patliputra Central Co-Operative Bank Limited, Madandhari Bhawan, S.P. Verma Road, Patna
 3. The Patliputra Central Co-Operative Bank Limited, Madandhari Bhawan, S.P. Verma Road, Patna Through Its Managing Director

.... Appellant/s

Versus

1. The State Of Bihar
2. The Secretary, Department Of Co-Operative, Govt. Of Bihar, New Secretariat, Patna
3. The Registrar, Co-Operative Societies, Government Of Bihar, Patna
4. Bifan Singh Son Of Late Halkhori Singh Resident Of Village Ular, P.O. Bharatpur, P.S. Dulhin Bazar, District- Patna

.... Respondent/s

with

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**Letters Patent Appeal No. 1082 of 2013
IN
Civil Writ Jurisdiction Case No. 5011 of 2006**

- =====
1. The Managing Director, Patliputra Central Co-Operative Bank Limited, Madandhari Bhawan, S.P. Verma Road, Patna- 800001
 2. The Chairman, Patliputra Central Co-Operative Bank Limited, Madandhari Bhawan, S.P. Verma Road, Patna- 800001, District- Patna

.... Appellant/s

Versus

1. The State Of Bihar
2. The Commissioner-Cum-Secretary, Co-Operative Societies Department, New Secretariat, Government Of Bihar, Patna
3. The Registrar, Co-Operative Societies, Government Of Bihar, Patna
4. Bhuneshwar Prasad Sinha Son Of Late Rajdeo Singh Resident Of A/72, P.C. Colony, Kankarbagh, P.S. Kankarbagh, Town And District- Patna

.... Respondent/s

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Appearance :

(In LPA No.1065 of 2013)

For the Appellant/s : Mr. Kishore Kumar Sinha
Mr. Shashi Shekhar
For the State : Mr. Anil Kumar Singh



For Respondent No. 4 : Mr. Shekhar Singh and Mr. Rajesh Kumar
(In LPA No.1082 of 2013)
For the Appellant/s : Mr. K K Sinha, Mr. Shashi Shekhar
For the State : Mr. Anil Kumar Singh
For Respondent No. 4 : Mr. Shekhar Singh and Mr. Rajesh Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-01-2018

Seeking exception to an order dated 23.08.2012 passed by the learned Writ Court in CWJC No. 5011 of 2006 and CWJC No. 5520 of 2006 both these appeals have been filed by the appellant-Co-operative Bank.

The issue in question pertains to enhancement of age of superannuation of the employees of the Bank from 58 to 60 after the State of Bihar enhanced the age of superannuation of its employees from 58 to 60. The Bank in question through its Board of Directors passed the resolution on 22.04.2005 deciding enhancement of the age and the decision was forwarded to the competent authority of the State Government for their approval. The matter was pending for approval and the State Government accorded the approval only on 15.05.2006. In the meanwhile, the employees based on the resolution were directed to work for some time even after they had attained the age of superannuation of 58 years but when the approval of the resolution dated 22.04.2005 was not granted on some complaint and



objections filed the employees were discontinued. However, after the approval was granted the learned Writ Court found that what has been approved is the resolution passed on 22.04.2005 and, therefore, the effective date for implementing the decision of the State Government is the date on which the resolution was passed on 22.04.2005 and in paragraphs -20 and 21 dealt with the matter in the following manner:-

*“20. Furthermore, the settled principle of laws is that nobody should be allowed to suffer due to fault of others and hence the petitioners also should not be allowed to suffer due to undue and unexplained delay caused by the authorities of the State of Bihar as well as by the authorities of the Bank/ Moreover, since the petitioners had not retired nor had completed the age of 58 years on the date of the aforesaid order of the Bank dated 22.04.2005, they clearly came within the scope of the enhancement of the age of superannuation to 60 years and accordingly they should have been allowed to work till their completion of 60 years on 31.07.2007 and 30.04.2007 instead of 31.07.2005 and 30.04.2005 respectively. Hence they are entitled to all the benefits of service till they attained the age of 60 years on 31.07.2007 and 30.04.2007 irrespective the date of issuance of order of the authorities of the Government on 15.05.2006 and the order of the authorities of the Bank on 30.07.2007. Reference in this regard may be made to the decision of a Bench of this court in case of **Sheo Bachan Lal & Ors. Vs. The State***



of Bihar & Ors., reported in 2009 (1) PLJR 460, which was also affirmed by a Division Bench of this Court on 27.11.2007 in LPA No. 752 of 2007.

21. Accordingly, both the writ petitions are allowed and the authorities of the respondents are directed to treat both the petitioners to have retired after completion of 60 years of age as aforesaid and all the benefits of service till the said age of superannuation must be given to them by the authorities of the Bank within four months from the date of receipt/production of a copy of this order.”

From the aforesaid it is clear that the learned Writ Court decided the issue based on a judgment rendered by a Bench of this Court in the case of **Sheo Bachan Lal & Ors. vs. The State of Bihar & Ors.** reported in **2009 (1) PLJR 460**, which was affirmed by a Division Bench in LPA No. 752 of 2007 and the SLP filed by the Bank and the State Government was also dismissed. In the case of **Sheo Bachan Lal** (supra) it has been held that when an approval is granted to a decision of the Board of Directors the same would relate back to the date when the Board took the decision and if we take note of the aforesaid we find that this is based on the fact that in the resolution passed by the Government itself it is indicated that it would be effective from the date when the order of decision of the Bank was taken and Clause (Gha) of the letter dated 15.06.2006



granting approval has been interpreted by the learned Writ Court in the aforesaid manner.

We see no error in the same warranting reconsideration. The issue stands settled by the Division Bench judgment approving the law laid down in the case of **Sheo Bachan Lal** (supra).

Therefore, both the appeals are dismissed

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr1./-

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