

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1619 of 2015

In

Civil Writ Jurisdiction Case No.4107 of 2015

=====

Khalil Ahmad, S/o Late Abdul Majeed R/o Mohalla Afzalpur, P.O. - Mahendru, P.S. - Pirbahore, District - Patna at present posted as Urdu Typist at Piro Block, P.S. Piro, District - Bhojpur, Ara.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Cabinet Secretariate and Raj Bhasha, Govt. of Bihar, Patna.
3. The Secretary, General Administration, Govt. of Bihar, Patna.
4. The Director, Urdu Directorate, Raj Bhasha Department, Govt. of Bihar, Patna.
5. The Dy. Director, Urdu Directorate, Raj Bhasha Department, Govt. of Bihar, Patna.
6. The District Magistrate, Bhojpur.
7. The Sub-Divisional Officer, Piro, District - Bhojpur, Ara.
8. The Block Development Officer, Piro Block, Piro, District - Bhojpur.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Abdul Wadood, Advocate

For the Respondent/s : Mr. Ravindra Kr. Priyadarshi- SC-32

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

13 04-07-2018

In the matter of transfer of the petitioner and not joining on the post, the intervening period has been regularized by granting extraordinary leave and counting it for the purpose of pensionary benefits. With regard to refusal of salary for the intervening period in Paragraphs 7, 8 and 9 of the impugned order, the learned Writ Court after scrutiny of the record has observed as under:-



“7. The facts not only indicate that the petitioner only made a lame excuse for a long period of absence from duty and all the story which has now been narrated in the writ application is basically an after-thought and justification to cover up long period of absence. It is absolutely clear from the materials that the petitioner was in complete defiance and wanted to avoid and ignore the order of transfer at any cost.

8. Even if for the sake of argument, it is accepted that the authority, who issued the order of transfer or deputation of the petitioner, exceeded his jurisdiction, the petitioner cannot unilaterally decide not to obey. If such an indulgence or concession is given to a Government servant, the court cannot imagine what shall be the fall out on the administration at large.

9. It was open to the petitioner to approach the superior authority and point out the infirmities in the decision so taken. He cannot decide unilaterally not to obey the orders and thereafter make a cock and bull story as to the reasons why he remained absent from duty for such a long period of time.

The aforesaid finding recorded by the learned Writ Court is a reasonable finding based on due appreciation of the material that came on record and the discretion exercised by the learned Writ Court in the matter of denying salary in the



aforesaid circumstances cannot be termed as perverse or illegal warranting interference in this appeal under Section 10 of the Letters Patent.

Accordingly, finding no merit, this Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-R.S.Sen

U			
---	--	--	--

