

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2178 of 2016

In

Civil Writ Jurisdiction Case No.15302 of 2013

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1. The State of Bihar
 2. The Chief Engineer, South Bihar, Bhawan Construction Department, Patna.
 3. The Superintendent Engineer, South Bihar Anchal, Patna.
 4. The Superintending Engineer, Public work Department, Patna Division Patna cum Drawing and Disbursing Officer.
 5. The Executive Engineer, Public Work Department, Patna Division, Patna
 6. The Provident Fund Officer, Patna
 7. The Accountant General, Bihar, Patna

... ..Respondents/Appellants

Versus

Mostt. Nilam Sharma Wife of Ravindra Sharma, Resident of Mohalla Makhania Kuan, East Gali Police Station Pirbahore, District -Patna

... ..Writ petitioner/Respondent

Appearance :

For the Appellant/s : Mr. Sushil Kumar, GP-22

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 19-07-2018

Re: I.A.No.9173 of 2016

This appeal arises from a judgment and order of a learned Single Judge passed on 11.09.2014 in CWJC No. 15302 of 2013, whereby the writ petition was allowed and the claim of the appellant-writ petitioner for family pension, inter alia, on grounds that her husband, a Vibrator Khalasi in Work Charge



Establishment under the Public Works Department, died in harness even while his claim of regularization remained pending. The learned Single Judge, taking note of the earlier orders of this Court, has allowed the claim vide judgment and order was passed on 11.09.2014 and has been appealed against by the State by this intra-court appeal which is filed after a delay of 02 years and 41 days.

A petition for condonation of delay under Section 5 of the Limitation Act is filed bearing I.A. No. 9173 of 2016 and Mr. Sushil Kumar, learned GP-22, in reference thereto, has submitted that the matter was considered by the concerned Department and when it was decided to file an appeal. He submits accordingly the papers along with the statement of facts were forwarded, whereafter the appeal is filed which has consumed 02 years and 41 days.

We have tried hard to find explanation for the delay in filing the appeal in the limitation petition but find only vagueness. The judgment and order impugned was passed on 11.09.2014 as accepted in paragraph 3 of the limitation petition. It is mentioned that on the



advice of the Government Counsel, the statement of facts was prepared and sent for filing the Letters Patent Appeal, whereafter it has been filed. The discussion is conspicuously missing on the reasons for a delay of 02 years and 41 days in filing the appeal.

We are conscious of the procedural delay which normally occasions in filing of Govt. Appeals because of the consideration at various levels of the Government as well as the Govt. Counsel, but then not only the delay has to be reasonable rather it is also to be accompanied with a reasonable explanation and the filing has to be within a reasonable time.

A delay of more than 02 years in filing the appeal is hard to justify by any means and considering the absolute lack of explanation to the procedural lapse, we are of the opinion that if the law of limitation binds a common man, the State cannot be allowed premium to move in luxury for seeking a judicial remedy.

Not being satisfied by the reasons so assigned in the petition filed for condonation of delay, we proceed to reject the limitation petition bearing I.A. No. 9173 of 2016, which is accordingly rejected.



Consequently the Letters Patent Appeal is also dismissed.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

HR/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	24. 07.2018
Transmission Date	

