

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1619 of 2017
IN
Civil Writ Jurisdiction Case No. 15658 of 2016**

- =====
1. The State Of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna.
 2. Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna.
 3. Officer-on- Special Duty, General Administration Department, Government of Bihar, Old Secretariat, Patna.
 4. The Under Secretary to the Government, General Administration Department, Government of Bihar, Old Secretariat, Patna.
 5. The Commissioner, Purnea Division, Purnea.
 6. Enquiry Officer-cum- Commissioner, Purnea Division, Purnea.
 7. District Magistrate, Kishanganj, District- Kishanganj.
 8. Additional Collector, Kishanganj, District- Kishanganj.
 9. Deputy Collector, Land Reforms, Kishanganj.
 10. Sub Divisional Officer, Kishanganj.

.... Appellant/s

Versus

1. Dr. Fateh Faiyaz son of Late Fakhruddin, resident of Village- Dehti, P.S.- Palasi, District- Araria. Petitioner-Respondent no.1
2. Secretary, Bihar Public Service Commission, Patna.

..... Respondent no. 11-Respondent no. 2

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Utsav Kumar (AC to GA 4)

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-03-2018

There is a delay of 88 days in filing this appeal. IA No.



144 of 2018 has been filed for condonation of the delay in preferring the appeal. Considering the facts and circumstances and in view of submission made in support thereof, this application is allowed. The delay in filing the appeal is condoned.

This appeal has been filed by the State Government seeking exception to an order dated 25/07/2017 passed by the learned Writ Court in CWJC No. 15658 of 2016. Having heard learned counsel for the parties we find that in the matter of a disciplinary action against the writ petitioner-respondent no.1 under the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and imposing upon him certain punishment of censure and reduction in pay by five stages the learned Writ Court has gone into various aspects of the matter and in place of allegation of misconduct in the facts and circumstances of the case has found that the acts alleged to be misconduct does not fall within the purview of an act of misconduct. It may be an act of negligence or carelessness in dealing with the matter and placing reliance upon the law laid down by the Supreme Court in the case of *Union of India vs. J Ahmad [(1979) 2 SCC 286]* and in the case of *State of Punjab vs. Ram Singh (AIR 1992 SC 2188)* the learned Writ Court has held that for an isolated case of negligence the imposition of punishment is not sustainable.

In our considered view, the learned Writ Court has not



committed any error in doing so. We see no reason to make any indulgence into the matter. The appeal is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.03.2018
Transmission Date	

