

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.446 of 2017
In
Civil Writ Jurisdiction Case No.7705 of 2015

1. The State of Bihar.
2. The Principal Secretary, General Administration Department,
Patna.
3. The Deputy Secretary, General Administration Department,
Govt. of Bihar, Patna.

... .. Appellant/s-Respondents.

Versus

1. Dinesh Chandra Duwedi, son of Late Sarvdeo Duwedi, resident of Mohalla-
A-208, P.C. Colony, P.S.- Kankarbagh, District- Patna.
..... Respondents-Petitioner
2. The Accountant General, Bihar, Patna.

... .. Respondent-Respondent-2nd set.

Appearance :

For the Appellant/s	:	Mr. S. Raza Ahmad, Advocate
	:	Mr. Alok Ranjan, AC to AAG-5
For the Respondent no.1	:	Mr. Shailesh Kumar Sharma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-09-2018

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge dated 02.09.2016 passed in CWJC No.7705 of 2015 in so far as directing the Appellant-State to pay the interest on the delayed payment of pension, gratuity, leave encashment and other



retirement dues, considering the circular/instructions i.e. Memo No. P.C.-2-1-46/79/3155 dated 07.11.1981, the State has preferred the present Letters Patent Appeal.

2. We have heard the learned counsel appearing on behalf of the respective parties at length.

3. At the outset, it is required to be noted that though the original writ petitioner retired, he was paid 90% of the gratuity and pension pending departmental enquiry which is still continuing. His pension/gratuity was withheld in exercise of powers under Section 43(b) of the Bihar Pension Rules, 1950. However, as no final order was passed in the departmental enquiry and the departmental enquiry is still pending and that too even the same was not concluded even after the period of seven years from the date of original petitioner attained the age of superannuation, learned Single Judge by the impugned judgment and order has set aside the action of the respondents in withholding the amount of pension/gratuity and directed the State to pay the entire amount of pension/gratuity and other retiral benefits.

4. It is required to be noted that such entire order is not under challenge by the State as no submissions have been made on the aforesaid. However, as learned Single Judge has further directed to pay the interest on the delayed payment of



pension/gratuity and other retiral benefits, etc. considering the Government Circular/Instructions dated 07.11.1981, the State is aggrieved by the aforesaid direction to pay the interest on the delayed payment of pension/ retiral benefits as per Circular/Instructions dated 07.11.1981.

5. Learned counsel appearing on behalf of the State has vehemently submitted that in the facts and circumstances of the case and more particularly, when the departmental enquiry is pending, and pending the departmental enquiry full pension/retirement benefits were withheld, the circular dated 07.11.1981 shall not be applicable.

6. On reading even the circular dated 07.11.1981, we are of the opinion that as it was not the case of compulsory retirement of the original petitioner, the original petitioner shall be entitled to the interest on the delayed payment of full pension/retirement benefits etc. Learned Single Judge has rightly directed the State to pay the interest considering the circular dated 07.11.1981. We see no reason to interfere with the same. No case is made out to interfere with the impugned direction in exercise of intra-court appellate jurisdiction.



7. Hence, there is no substance in the present Appeal, the same deserves to be dismissed and is, accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Sunil/-s.shukla

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.09.2018
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