

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1524 of 2017
IN
Civil Writ Jurisdiction Case No. 13011 of 2015**

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M. Srinivasan, son of late M. Chandra Shekaran, resident of 'Rajani' Lane 44,
Janatha Road, Vytiila, Enarkula- 612016.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary-Cum- Vice Chairman, Science and Technology Department, Government of Bihar, Technology Bhawan, Baily Road, Patna.
3. The Secretary, Executive Committee-Cum- Director, Science and Technology, Bihar Council of Science and Technology Bhawan, Baily Road, Patna.
4. Project Director, Bihar Council on Science and Technology and Bihar Remote Sensing Application Centre, Planetarium Complex, Patna.
5. Subodh Kumar Verma, Assistant-Cum- Accountant, Bihar Remote Sensing Application Centre, Planetarium Complex, Patna- 1.
6. Ravindra Singh, Senior Assistant Bihar Council on Science and Technology, Planetarium Complex, Patna- 1.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Nandan Prasad

For the Respondent/s : Mr. PUSHKAR NARAIN SHAHI-AAG6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 25-06-2018

Challenge in the present Letters Patent Appeal is to the
order dated 19.09.2017 passed by the learned Writ Court in Civil Writ
Jurisdiction Case No.13011 of 2015. By the impugned order, the



learned Writ Court has refused to issue direction to the respondents to pay the petitioner amount of gratuity with up-to-date statutory interest, Group Insurance and arrears of salary said to be due to the petitioner on implementation of 6th Pay Revision with up-to-date statutory interest.

2. The petitioner claims that pursuant to the advertisement issued in the year 1989 he had applied for the post of Cartography Scientist and after adopting all norms and procedure of appointment he was duly appointed on the post of Cartography Scientist at Bihar Remote Sensing Application Centre, Planetarium Complex, Patna. Petitioner further claims that he has served the organization for eighteen years till 8th of February, 2008 when he resigned from the said post. It is his claim that at the time of resignation petitioner was not given any amount of gratuity, Group Insurance, leave encashment, arrear of 6th pay etc.

3. In the counter affidavit filed on behalf of respondent no.4 a plea has been taken that the petitioner left service voluntarily on 08.02.2008 and at the time when he resigned from service he was not a confirmed employee as the process of service confirmation was started in Bihar Remote Sensing Application Centre (in short 'BIRSAC') in the year 2013. It is the case of the respondent no.4 that due to non-confirmation of the service of the petitioner he would not



be entitled for gratuity and leave encashment etc. and only upon such confirmation he could have been eligible to get the benefit.

4. Today itself we have disposed of almost similar matter being LPA No.1522 of 2017 and having taken note of the facts and circumstances as also the pleadings made in this case, we give similar liberty to the petitioner-appellant in the present case to seek his remedy before the competent authority under the Payment of Gratuity Act, 1972 where all the pleas which may be available to the petitioner-appellant and the respondents may be considered and a decision shall be taken accordingly by the competent authority within a period of three months from the date of filing of the application by the appellant. The competent authority under the Payment of Gratuity Act, 1972 shall consider the application of the petitioner on its own merit and the same shall not be dismissed on the ground of limitation. So far as the other claims are concerned, we give liberty to the petitioner-appellant to submit a detail claim within 45 days from today before the respondent no.4 with all supporting materials and on such filing of the claim the respondent no.4 shall be obliged to consider the claim of the petitioner-appellant in accordance with law. The respondent no.4 shall pass a reasoned order within a period of three months from the date of filing of claim and in case any of the claims of the petitioner-appellant is found payable, the same shall also



be paid within a further period of one month.

5. Save and except the liberty which has been granted to the petitioner-appellant hereinabove, we do not find any reason to interfere with the judgment of the learned Writ Court. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.06.2018
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