

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.341 of 2018

In

Civil Writ Jurisdiction Case No.263 of 2016

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Om Prakash Ram, Son of Sri Ram Harijan, Resident of Village+Post Office-
Pakwaliya, Police Station- Daraunda, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate, Siwan.
3. The Deputy Development Commissioner, Siwan.
4. The District Panchayat Officer, Siwan.
5. The District Accounts Officer, Siwan.
6. The Block Development Officer, Maharajganj, District- Siwan.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Kumar Mishra, Adv.
For the Respondent/s : Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-12-2018

Heard Shri Umesh Kumar Mishra, learned counsel for
the appellant.

The defect as pointed out is ignored as we have gone
through the records of the writ petition which has been placed
before us.

The issue raised in this appeal is short, namely, that the
learned Single Judge was not justified in denying the benefits of
the 1st A.C.P. with effect from 25.9.2007. It is contended that even



otherwise, keeping in view the new amended Rules which have now been enforced, the appellant would be entitled to further benefits, but on account of the impugned judgment, the same would cause an impediment.

The appeal has been resisted on behalf of the respondent State and Shri Manish Kumar, Assistant Counsel to A.A.G. 6, contends that the learned Single Judge has rightly arrived at the conclusion that in view of the conclusion that the punishment order passed against the appellant that subsisted from 1.3.2007 till 1.3.2010 prevented the appellant from claiming any such benefit and as soon as the said period was over, the benefits were considered and conferred on him. It is further submitted that, insofar as the correct fixation is concerned, the learned Single Judge has already made it open to the appellant to move a representation and that shall be considered by the competent authority in accordance with law. It is further submitted that insofar as any benefits arising out of the amended Rules are concerned, it will be open to the appellant to seek his remedy before the appellate authority and which was not the subject-matter of the present controversy.

Having considered the submissions raised, we find that the appellant did not assail the order dated 1st of March, 2007



whereby the punishment was awarded to the appellant and which resulted in the withholding of the consideration of the grant of 1st A.C.P. to the appellant as his services were not found to be satisfactory keeping in view the said punishment order. The punishment order having not been challenged by the appellant, the conclusion drawn by the learned Single Judge cannot be said to be suffering from any infirmity.

In the wake of the aforesaid circumstances, we see no reason to interfere with the impugned judgment without prejudice to the rights of the appellants to seek his remedy for any such future and further benefits to which he may be entitled in accordance with law.

The appeal stands consigned to record with the said observations.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

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