

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.568 of 2018

In

Civil Writ Jurisdiction Case No.8237 of 2007

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Rakesh Kumar, Son of Sri Yado Lal Prasad, Resident of Village- Baltharva,
Police Station- Pipra, Kothi, District- East Champaran.

... .. Appellant/s

Versus

1. The Union of India through the Secretary of Home Affairs, New Delhi.
2. The Sr. Assistant Director of Accounts, PAO, SSB, New Delhi- 66.
3. The Assistant Director (Vigilance) FHO, SSB, Delhi.
4. The Sr. Assistant Director of Accounts ZPAO, SSB, Patna.
5. The Staff Officer (Admn.) Frontier Hqr. SSB, Patna.
6. The Staff Officer (Admn.) Sector Hqr. SSB, Muzaffarpur.
7. The Commandant, 27th Battallion, SSB, Narkatiaganj, District- West Champaran, Pin- 845455.
8. The Deputy Commandant, Commandant (CCD) officer of the Commandant, 27th Battallion, SSB Narkatiaganj, Bhaiya Jee Colony, Near Himalaya Cinema Hall, Narkatiaganj, District- West Champaran, Pin- 845455.
9. Q.M. Branch, Battallion, 27th Battalian, S.S.B. Narkatiaganj.
10. The Headmaster, SPGR High School, Jeodhara, East Champaran (Bihar).

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Tiwari, Advocate
Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. S.D Sanjay, Addl. Soc. Gen.
Mr. Rajesh Kumar Verma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-11-2018

I.A. No. 3150 of 2018

Heard learned counsel for the appellant.

2. The delay of 221 days has been reported.

3. We have considered the submissions raised and we find that sufficient cause has been shown to condone the delay. The delay is condoned and the appeal shall be treated to be within time.

4. I.A. No. 3150 of 2018 stands allowed accordingly.

Re: L.P.A. No. 568 of 2018

Heard learned counsel for the appellant and the learned counsel for the Union of India.

2. The writ petition was filed assailing a termination order. It appears that the learned counsel for the appellant defaulted in appearing before the learned Single Judge in spite of an adjournment and consequently the learned Single Judge proceeded to dismiss the writ petition not for want of prosecution but on the merits of the claim.

3. We are of the considered opinion that in the event the learned counsel had defaulted in appearance, the petition ought to have been dismissed in default and not on *ex parte* merits of the case. Consequently, we set aside the judgment of



the learned Single Judge dated 09.08.2017 passed in C.W.J.C. No. 8237 of 2007 and restore the writ petition to its original number. Learned counsel for the appellant undertakes that he shall not seek any adjournment before the learned Single Judge.

4. Accordingly, the appeal is allowed. Let the matter be listed before the learned Single Judge in the next cause-list for orders.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-R.S.Sen

AFR/NAFR	
CAV DATE	
Uploading Date	27.11.2018
Transmission Date	

