

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.635 of 2018

In
Civil Writ Jurisdiction Case No.12203 of 2013

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Awadhesh Singh son of Late Ram Chandra Singh, Resident of Village-
Lahsuna, P.S. Masaurhi, District- Patna.

... .. Appellant/s

Versus

1. The State Of Bihar through the Managing Director (M.D.), Bihar State Ware Housing Corporation at 2/B, Mauryalok Complex (1st Floor), Patna. 800001.
2. The Secretary, Bihar State Ware Housing Corporation at 2/B, Mauryalok Complex (1st Floor), Patna.
3. The Divisional Manager, Bihar State Ware Housing Corporation, Biharsharif, Bihar.
4. The Accounts Officer, Bihar State Ware Housing Corporation, Mauryalok Complex, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sunil Kumar Pathak, Advocate
For the B.S.W.C.	:	Mr. Mithilesh Kumar Rai, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-06-2019

Heard learned counsel for the appellant.

The challenge raised is to the impugned judgement dated 8th of March, 2018 on the ground that the learned Single Judge has dismissed the writ petition only on the ground that certain provisions were not brought to its notice under which the appellant was entitled to any payment of gratuity and other benefits.

We find from the record that certain payments to



which the appellant was entitled have been paid which is evident from the recital contained in the counter affidavit in the writ petition. It is the submission of the learned counsel for the appellant that the appellant should be paid at least only those emoluments to which he is entitled under the general regulations framed by the Bihar State Ware Housing Corporation. A copy of the said regulations framed under the Agricultural Produce (Development and Ware Housing) Corporations Act, 1956 has been placed before this Court.

Learned counsel for the respondent, however, submits that the appellant was involved in a huge case of embezzlement and, therefore, on account of his acts and omissions he is also being prosecuted on the criminal side.

We find from the impugned judgement that an order had been passed in disciplinary proceedings against which C.W.J.C. No.11254 of 2017 was filed and it was allowed on 15th January, 2018. It is submitted that a letters patent appeal has been filed against the same and is pending.

A mere pendency of the appeal cannot be a ground not to consider a claim which otherwise may be admissible under the regulations, but the same has to be examined by the competent authority in accordance with law.



We, therefore, modify the impugned judgement dated 8th March, 2018 with a direction to the Managing Director, respondent No.1, to examine the claim of the appellant in accordance with law with regard to its admissibility that may have been applied to similarly situate employees, and pass an appropriate order within three months from the date of production of a certified copy of this order.

The appeal is, accordingly, disposed of.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

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