

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.131 of 2018

In
Civil Writ Jurisdiction Case No.18776 of 2015

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Mahendra Prasad Singh Son of Late BakeBihari Singh, resident of Mohalla-
Chakla Nirmali, Ward No. 7, P.S. and District- Supaul.

... .. Appellant/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The Director Administration-cum- Joint Secretary, Department of Education,
Government of Bihar, Pa
5. The Accountant General, Bihar, Patna.
6. The Treasury Officer, Supaul.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Lalan Kumar, Advocate
		Mr. Vivek Anand Amritesh, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey, A.A.G. 15

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

Date : 23-04-2019

Heard learned counsel for the appellant.

The revised sanctioned payment order came to be challenged before the learned Single Judge whereby the pension earlier fixed was reduced from Rs. 14,005/- to Rs. 12,355/-.

Learned counsel contends that this was done after three years of his retirement on 6th August, 2011. The appellant had also claimed exemption from passing of the departmental



examination which application itself came to be rejected on 5th August, 2011 long after the appellant had retired. Learned counsel contends that this was an absolutely meaningless exercise, but even otherwise, the appellant was entitled for being exempted from appearing in the examination as he had already crossed the age and was eligible for being considered for a higher pay scale and which was granted to the appellant and the pension was fixed accordingly.

The contention, therefore, is that there was no fault on the part of the appellant and he had a rightful claim which was delayed by the respondent authorities themselves. Any such re-fixation after such a long span of time was, therefore, rightly assailed, but the learned Single Judge has inferred at this stage against the appellant of being responsible for such an incorrect pay fixation order.

What we find is that the appellant did not choose to challenge the order dated 6th August, 2011. Even otherwise, the revised fixation which is impugned in the present proceedings came to be challenged in the year 2015 in the writ petition giving rise to this appeal. The appellant, therefore, was either moving very comfortably being assured of the payments which had already been extended to him or otherwise not seriously



contesting the matter. This slackness on the part of the appellant in not challenging the order dated 6th August, 2011 remains undisputed. We, therefore, find that the authorities were not precluded from taking any such action of revising the pay fixation which in their opinion had been wrongly fixed.

Learned counsel submits that the inference of any collusion on the part of the appellant in seeking such benefits as observed by the learned Single Judge is absolutely unwarranted. The said facts may be debatable and, therefore, any such observations made by the learned Single Judge shall not adversely affect the appellant but insofar as the merits of the claim is concerned, the aforesaid fact of the order dated 6th August, 2011 having not been challenged remains undisputed and, therefore, we are unable to find any way out to entertain the claim of the petitioner as the order dated 6th August, 2011 clearly declines to grant any exemption to the appellant. It was quite possible for the appellant to have questioned the same as such an order came to be passed much after his retirement, but having not done so he cannot now put the blame on the respondents for the inaction on his part. We are, therefore, not inclined to interfere with the impugned judgement subject to the observations made hereinabove and further that in the event any



payments have been made to the appellant then in view of the observations of the learned Single Judge, which have not been accepted by us, we issue a direction that no recovery shall be made from the appellant from the amounts already paid to him.

Learned counsel for the appellant submits that even the calculation of the last basic pay suffers from a very marginal defect which, according to the appellant, should have been Rs. 12,425/-. In case there is any such error of calculation, it shall be open for the appellant to move a representation before the concerned authority who shall consider the same in accordance with law and pass an appropriate order within the period of three months from the date of production of a certified copy of this order.

The appeal stands disposed off.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

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