

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1563 of 2018**

**In**

**Civil Writ Jurisdiction Case No.15126 of 2013**

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1. The Administrator, Bihar State Road Transport Corporation, Pariwahan Bhawan, Birchand Patel Marg, Patna-800001.
  2. The Depot Superintendent, Agrico Depot, Jamshedpur, Jharkhand.
  3. The Depot Superintendent, Bihar State Road Transport Corporation, Jahanabad Depot.

... .. Respondent/Appellants.

Versus

Jugeshwar Sharma , son of Late Raghu Nandan Pandey, resident of village-Rampur, Post Office-Balia via Amba, Police Station-Kutumba, District-Aurangabad, Bihar.

... .. Petitioner/Respondent.

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**Appearance :**

For the Appellants : Mr. Prabhat Kumar Verma, Senior Advocate.  
Mr. Jainendra Kumar Sinha, Advocate.  
For the Respondent : Mr. Shailendra Kumar, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA**

**and**

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR**

**MISHRA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)**

**Date : 19-02-2020**

Heard learned counsel appearing for the appellants and the learned counsel appearing for the respondent on I.A. No.8277 of 2018, which has been filed on behalf of the appellants under Section 5 of the Limitation Act for condonation of delay of 356 days in filing this appeal. However, with the consent of both the parties, this appeal can be disposed of on the admission stage itself.



2. The appellants have preferred this appeal against the impugned order dated 21.09.2017 passed by the learned Single Judge in C.W.J.C. No.15126 of 2013, by which and whereunder the learned Single Judge directed the appellant no.1 to make payment of salary and other benefits of the respondent from the period of his dismissal till his retirement.

3. Learned counsel appearing for the appellants submits that the respondent was dismissed from the service in the year 1996 but, subsequently, he challenged his dismissal order before the Hon'ble Jharkhand High Court and the learned Single Judge of the Hon'ble Jharkhand High Court vide Judgment dated 21.07.2011 passed in C.W.J.C. No.10911 of 2000(P) quashed the dismissal order of the respondent and, thereafter, the respondent joined his service in the year 2011. Learned counsel appearing for the appellants further submits that the respondent filed C.W.J.C. No.18672 of 2012 before this Court for grant of his post retiral dues for the period, in which he was dismissed from the service. However, the learned Single Judge of this Court vide order dated 30.11.2012 passed in the above stated C.W.J.C. No.18672 of 2012 granted liberty to the respondent to make representation before the competent authority and, furthermore, the competent authority was



directed to dispose of the representation of the respondent by a reasoned order within the stipulated period. He further submits that the respondent filed the representation before the competent authority and his representation was disposed of by the competent authority vide order dated 12.12.2013. Learned counsel appearing for the appellants further submits that the respondent by suppressing all the above stated facts and without placing the order dated 12.12.2013 passed by the Administrator, obtained favourable order in his favour from the learned Single Judge. Learned counsel appearing for the appellants further submits that if the respondent is aggrieved by the order dated 12.12.2013 passed by the Administrator, he ought to have challenged the aforesaid order but the respondent did not choose to challenge the aforesaid order and, therefore, the impugned order dated 21.09.2017 is not in accordance with law.

4. On the other hand, learned counsel appearing for the respondent submits that, admittedly, C.W.J.C. No.15126 of 2013 was filed on 05.08.2013, i.e., before passing of the order dated 12.12.2013. He further submits that it is also an admitted position that the dismissal of the respondent was revoked by the Hon'ble Jharkhand High Court and, therefore, the respondent was entitled to get his salary as well as other retiral benefits so



for the period, in which he was terminated from the service and the learned Single Judge having considered all the aforesaid facts passed the impugned order dated 21.09.2017, which does not require any interference by this Court.

5. Having heard the contentions of the parties, we went through the record along with the record of the Writ Court.

6. It is an admitted position that the respondent was dismissed from the service after conclusion of departmental inquiry but, subsequently, his dismissal order was quashed by the Hon'ble Jharkhand High Court and, thereafter, he joined his service and it is also an admitted position that after superannuation from the service, the respondent approached this Court by filing C.W.J.C. No.18672 of 2012 for grant of retiral benefits including the salary for the period, in which he was dismissed from the service. However, the learned Single Judge gave liberty to the respondent to file the representation before the competent authority. It is also an admitted position that the respondent approached the competent authority in pursuant to the order dated 30.11.2012 passed in C.W.J.C. No.18672 of 2012. However, without waiting for the order of competent authority, the respondent filed C.W.J.C. No.15126 of 2013. However, it is apparent from the record that the order dated



30.11.2012 passed in C.W.J.C. No.18672 of 2012 as well as the order dated 12.12.2013 passed by the learned Administrator were brought on the record but the aforesaid orders were not brought to the notice of the learned Single Judge, while passing the impugned order.

7. Therefore, in view of the aforesaid facts and the circumstances, we are of the opinion that the order of the learned Single Judge cannot sustain in the eye of law and, accordingly, the impugned order dated 21.09.2017 is, hereby, quashed and, furthermore, C.W.J.C. No.15126 of 2013 stands dismissed being not maintainable. However, the respondent may challenge the order dated 12.12.2013 passed by the learned Administrator in accordance with law.

8. Accordingly, this appeal stands dismissed not only being time barred but also on merit.

**(Hemant Kumar Srivastava, J)**

**( Rajendra Kumar Mishra, J)**

**Pradeep Srivastava/-**

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