

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.71 of 2018

In

Miscellaneous Jurisdiction Case No.4278 of 2013

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1. The State of Bihar
 2. Sri Arun Kumar Singh, the Principal Secretary (Formally Known as Commissioner-cum-Secretary, W.R.D.) Water Resources Department, Govt. of Bihar, Sinchai Bhawan, Patna.
 3. Sri Jaideo, the Under Secretary, Water Resources Department, Sinchai Bhawan, Patna.
 4. Sri Rajeshwar Prasad, the Engineer-in Chief (North), Water Resources Department. Govt. of Bihar, Sinchai Bhawan, Patna.
 5. Mr. Ram Pukar Ranjan, the Chief Engineer, Balmikinagar, Water Resources Department, Balmikinagar.
 6. Mr. Govind Prasad, the Executive Engineer, Tirhut Canal Division No.1, Motihari.
 7. Mrs. Rupam Kumari, The Deputy Secretary, Finance Department Personal Claim Cell, Patna.
 8. Mr. Rakesh Chaudhary, The District Provident Fund Officer, Motihari

... .. Appellant/s

Versus

1. Shatrughan Ray Son of Late Ghan Govind Ray, Resident of Village and Post office-Sherpur Kalan, P.S. Bhawar Kol, District-Gazipur U.P..
2. Mr. Sanjay Kumar, The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Chandra Shekhar Singh, AC to GA- 1
For the Accountant General : Mr. Raghwanand, Adv.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 25-02-2020

Re.:- I.A. No. 299 of 2018/01 of 2018

The above mentioned Interlocutory Application
has been preferred for condonation of delay of 119 days in filing
the instant appeal.



On the ground mentioned in the Interlocutory Application, showing sufficient reasons for not filing the instant appeal within stipulated time, delay of 199 days in filing the instant appeal is hereby condoned.

Accordingly, I.A. No. 299 of 2018/01 of 2018 is disposed of.

Re.:- L.P.A. No. 71 of 2018

The instant appeal has been preferred against the order dated 16.08.2017, passed in M.J.C. No. 4278 of 2013, which was filed for non-compliance of the order dated 28.07.2011, passed in C.W.J.C. No. 12762 of 2005, whereby the appellant was directed to grant promotion to respondent no.1 with retrospective effect, i.e., from 01.01.1998.

Learned Single Judge while hearing the contempt application, vide order dated 16.08.2017, directed the appellant to comply the order of the learned Single Judge passed in the writ application since direction issued by the learned Single Judge has attained finality as it has never been challenged.

Learned counsel for the appellant submits that the direction given by the writ Court is against the circular of the Finance Department and hence the order of the writ Court cannot be given effect to as juniors to the writ petitioner was not



given financial benefits.

Considering the fact that the order passed in the writ application has attained finality and it has never been challenged moreover, by the order passed in the contempt application, no order deciding the rights and liability of the parties has been decided, hence we do not think that the instant appeal is maintainable.

However, from perusal of the record of contempt application, it appears that contempt application has been disposed of, since by way of supplementary show cause dated 08.11.2017 filed by the respondents in the contempt application, they have accepted that the respondents were promoted and consequential benefits has been granted to them. Relevant portion of the order dated 21.02.2018, passed in M.J.C. No. 4278 of 2013 reads as follows:-

“From the show cause and supplementary show cause filed by the respondents on 08.11.2017, it is seen that promotion and consequential benefit have been granted to the petitioner. The consequential benefits granted and the manner in which they have been granted is indicated by the respondents in their supplementary show cause filed along with the documents and orders annexed thereto.”

In that view of the matter, we are of the considered view that the instant appeal has become infructuous.



Accordingly, the instant appeal is dismissed as
infructuous.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.03.2020
Transmission Date	

