

Letters Patent Appeal No.1272 of 2019

In

Civil Writ Jurisdiction Case No.6361 of 2016

Pramod Kumar Yadav, aged about 47 years, male, son of Kusheshwar Prasad, resident of village + P.O.- Bhalar, P.S. Dharhara, District- Munger.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. Director General of Police, Bihar, Patna
3. D.I.G. of Police, Military Police, Central Zone, Patna.
4. Commandant, BMP-2, Dehri, Rohtas at Sasaram

... Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Hriday Prasad, Advocate

For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

3 24-02-2020 Heard Sri Ram Hriday Prasad, learned counsel for the
appellant and Mr. Suman Kumar Jha, learned A.C. to A.A.G. 3.

Re: I.A. No. 1 of 2019

The aforesaid interlocutory application has been filed for condonation of delay of fourteen days in filing the present Letters Patent Appeal.

Considering the sufficient grounds mentioned in the interlocutory application for not filing the appeal in time, the delay in filing the present Letters Patent Appeal is condoned.



Accordingly, I.A. No. 1 of 2019 is disposed of.

Re: L.P.A. No. 1272 of 2019

The present appeal has been filed against the judgment dated 13.08.2019 passed in C.W.J.C. No. 6361 of 2016, whereby, the petitioner's writ application challenging the dismissal order dated 31.01.2008 passed on the ground that he remained absent from duty for thirty eight days, has been dismissed on the ground that the appellant took a ground that it was an ex-parte departmental inquiry, though the material on record suggests that the petitioner participated in the departmental inquiry.

It is submitted by learned counsel for the appellant that the appellant is confining his prayer only to the extent of disposal of his mercy appeal pending before the Director General of Police, Bihar, Patna and the order of writ court may not prejudice the appellate authority in considering the same.

Learned counsel appearing for the respondents submits that he has no instruction with regard to the status of the mercy appeal as to whether it is pending or disposed of, but if it has not been disposed of, direction may be given for disposing the same within a fixed time frame.

Considering the rival submissions of the parties and



after perusing the impugned judgment it appears that the writ application has been dismissed only on the ground that the appellant made a wrong statement to the effect that inquiry was conducted ex-parte, on the contrary, he participated in the departmental inquiry.

Considering the fact that writ court's order was not passed on merit, but only on technical ground and non setting aside of the order passed in the writ petition may prejudice the decision in the mercy appeal pending before the Director General Police, Bihar, Patna, we direct the Director General of Police, Bihar, Patna to dispose of the appeal within a period of eight weeks from the date of receipt / production of a copy of this order.

The writ petition with above observation is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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