

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.203 of 2021

In

Civil Writ Jurisdiction Case No.2656 of 2020

Dr. Krishna Kumar Mallick, Son of Late Brajeshwar Mallick, Resident of House No. 90, Road No. 02, Srikrishna Nagar, P.S. Buddha Colony, District-Patna, at present C/o Mr. Ugranath Mallik H/O Late Sriram Singh, Rajmani Bhawan, Mohalla-Mainpura, Opposite Gate No. 46, Patna-800001.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Vikas Bhawan, New Secretariat, Patna.
3. The Director-in-Chief, Department of Health and Family Welfare, Government of Bihar, Vikas Bhawan, New Secretariat, Patna.
4. The Director, Provident Fund, Government of Bihar, Patna.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ugranath Mallik, Advocate
Mr. Bzmal Kumar Jha, Advocate
For the Respondent/s : Mr. S.D. Yadav (A.A.G.- 9)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-09-2021

Heard learned counsel for the parties.

Being aggrieved by judgement and order dated 04.02.2021 passed in C.W.J.C. No. 2656 of 2020 passed by learned Single Judge of this Hon'ble Court, appellant/petitioner has preferred this L.P.A.

Appellant had filed writ petition for directing

respondents for fixation of pension as well as payment of pension, G.P.F., Group Insurance, Gratuity, Leave Encashment and payment of arrears of salary for the period during which appellant remained waiting for posting.

Counter affidavit was filed on behalf of State of Bihar, in which it was brought to the notice of writ court that petitioner had earlier approached this Court for similar relief by filing writ petition being C.W.J.C. No. 4826 of 2005 and said writ petition was allowed by learned Single Judge by order dated 10.05.2011 against which State of Bihar preferred an L.P.A. before Division Bench being L.P.A. No. 1943 of 2012 which was allowed by the Division Bench by order dated 10.09.2013 and the order passed by learned Single Judge was set aside and writ petition was dismissed and said order attained finality and thereafter for similar relief appellant filed present writ petition being C.W.J.C. No. 2656 of 2020 which was dismissed by learned Single Judge by the order dated 04.02.2021 with cost of Rs. 25,000/- against which present L.P.A. has been preferred.

After hearing counsel for the petitioner as well as counsel for the State, this Court is also of the view that present writ petition was barred by principles of res-judicata as for similar relief, appellant had earlier filed writ petition which was

dismissed by Division Bench in L.P.A. and, as such, learned Single Judge rightly observed that filing of present writ petition is nothing but an abuse of process of the Court and dismissed the writ petition with cost of Rs. 25,000/-.

However, in the facts and circumstances of the present case, the order of writ court imposing cost of Rs. 25,000/- is set aside and judgment and order passed by the writ court is modified to the extent as indicated above.

With aforesaid modification of the order dated 04.02.2021 passed in C.W.J.C. No. 2656 of 2020 passed by learned Single Judge, the L.P.A. stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA