

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.235 of 2020

In
Civil Writ Jurisdiction Case No.11311 of 2016

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1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 3. The Engineer-in-chief-cum-Special Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 4. That Chief Engineer (Mechanical), Public Health Engineering Department, Government of Bihar, Patna.
 5. The Zonal Chief Engineer, Purnea Zone, PHE Department, Bihar, Patna.
 6. The Superintending Engineer, Public Health Engineering Circle, Saharsa.
 7. The Executive Engineer, PH Division, Patna East, Patna.
 8. The Executive Engineer, Public Health Engineer Division, Supaul.
 9. The Executive Engineer, Public Health Engineer Division, Saharsa.
 10. The Sub-Divisional officer, Public Health Sub-Division, Barh, Patna.

... .. Appellant/s

Versus

1. Brajendranandan Singh Son of Sri Raghabendra Narayan Singh, Resident of Village and P.O. Panchgachhia, P.S. Bihra, District- Saharsa.
2. The District Accounts officer, Saharsa.
3. The Treasury Officer, Saharsa.
4. The District Accounts Officer , Supaul.
5. The Treasury Officer, Supaul.
6. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S. Raza Ahmad, A.A.G. 5 Mr. Vishwambhar Prasad (AC To AAG 5) Mr. Alok Ranjan, (AC to AAG 5)
For the Respondent/s	:	Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)



(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 04-09-2021

Re: I.A. No. 1 of 2020

The instant Interlocutory Application has been filed for condonation of delay of 3 years and 1 day in filing the present appeal.

Without application of mind, in a stereo type manner, the application has been prepared, bereft of material facts and particulars, explaining each day's delay.

Relevant portions of the application are reproduced as under:-

3. That for filing Letters Patent Appeal against the order dated 23.02.2017 passed in CWJC No. 11311 of 2016, the file has been forwarded to Law Department, but in light of opinion of the Law Department and the decision of the then Secretary, PHED, vide departmental letter no. 254 contained in Memo No. 2329 dated 07.12.2017 the order dated 23.02.2017 passed in CWJC No. 11311 of 2016 has been complied with.



4. That it is also pertinent to mention here that CWJC No. 11311 of 2016 has been disposed of vide common order dated 23.02.2017 along with analogous cases.

5. That against the common order dated 23.02.2017, five separate contempt application has been preferred by the petitioners. In MJC No. 2343 of 2017 (Vijay Kumar Singh Versus The State of Bihar and others) and in MJC No. 2617 of 2017 (Rajendra Yadav Versus The State of Bihar and others) this Hon'ble Court vide order dated 01.05.2019 made an observation that the order dated 23.02.2017 has not been complied with in



its true letter and spirit and direction has been issued to comply the order.

6. That in the compelling circumstances the order dated 23.02.2017 has been complied with in MJC No. 2343 of 2017 and in MJC No. 2617 of 2017 and the entire period of work charge establishment of the petitioner of aforesaid contempt application have been directed to be counted for the purposes of pension and gratuity subject to final outcome of proposed LPA and with a condition that such order shall be treated as Precedent for other similarly situated employees.



7. That in such circumstances the State of Bihar and its authorities decided to file Letters Patent Appeal against the common order dated 23.02.2017.
8. That for preparing statement of facts for filing LPA the file has been handed over to the departmental advocate on 19.06.2019 and the same has been returned by the departmental advocate on 03.10.2019.
9. That after receiving of the statement of facts on 03.10.2019 the file has been placed before Departmental Secretary for approval of statement of fact.



10. That the departmental secretary has approved the statement of facts on 25.10.2019.

11. That on 25.10.2019 the file has been sent to the law department for obtaining necessary consent for filing of LPA.

12. That on 28.10.2019 the file has been sent by the office of Under Secretary cum Deputy Law Advisor to the office of Learned Advocate General.

13. That the Learned Advocate General, has endorsed the file to the office of H.A.G.5 on 30.10.2019.

14. That it is stated from the fact stated above that delay occurred due to process

of official decision and not due to deliberate or wilful
latches on the part of the appellants and such delay is



fit to be condoned.”

As such, we do not find any reason, sufficient enough to condone the delay, for each day's delay has not been explained, much less sufficiently explained by the appellants.

The delay of 3 years and 1 day in filing the appeal remains unexplained.

As such, Interlocutory Application No. 1 of 2020 stands dismissed.

Re: L.P.A. No. 235 of 2020

Appellants lay challenge to the impugned judgment dated 23.02.2017 passed by a learned Single Judge of this Court in CWJC No. 11311 of 2016, titled as Brajendranandan Singh Vs. The State of Bihar & Ors., and analogous cases.

In view of dismissal of the Interlocutory Application No. 1 of 2020, the instant Letters Patent Appeal also stands dismissed.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

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