

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1575 of 2019

In

Civil Writ Jurisdiction Case No.5485 of 2017

-
-
1. The State of Bihar
 2. The Secretary, Animal and Fishery Resource Department, Government of Bihar, Patna.
 3. The Under Secretary, Animal and Fishery Resource Department, Government of Bihar, Patna.
 4. The Director Animal Husbandry Department, Animal and Fishery Resource Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Dr. Parimal Chakraborty, son of Late A.B. Chakraborty, resident of 470-C, Mandir Marg, Ashok, Nagar, Police Station Ashok Nagar, Police Station - Argora, District- Ranchi, Jharkhand.
2. The Accountant General, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sajid Salim Khan, SC 25
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(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.)

Date : 04-09-2021

I.A. No.1 of 2019

Having heard learned Counsel for the parties, we are satisfied that the delay 162 days in filing of the appeal has been sufficiently explained. The delay condonation application



is allowed. The appeal shall be treated to be within time.

L.P.A. No.1575 of 2019

This appeal is directed against the order dated 19.06.2019 passed in C.W.J.C. No. 5485 of 2017, titled as Dr. Parimal Chakravorty Vs. The State of Bihar & Ors., by a learned Single Bench of this Court.

Shri Sajid Salim Khan, learned counsel for the appellants does not dispute the position that the decision rendered by the learned Single Judge of this Court in **2017(3) P.L.J.R. 79, Nityanand Kumar Singh v. State of Bihar**, has attained finality.

We have gone through the said decision and find that the learned Single Judge, in fact, has referred to the decision rendered by a Division Bench answering the reference, holding that Rule 43(a) of the Bihar Pension Rules is applicable only with respect to the act and conduct, subsequent to the retirement of the delinquent employee.

In the instant case, the learned Single Judge, relying upon the said decision rightly allowed the writ petition holding that the Department had initiated proceedings in relation to an act of the employee while in service and that too after a period of twenty-five years of superannuation. The



employee retired on 31st of December, 1990 whereas the departmental proceedings were initiated under Rule 43(a) the Bihar Pension Rules on 16th of June, 2016.

In this view of the matter, we find no reason sufficient enough to interfere with the impugned judgment for there being no illegality or infirmity or violation of any of the principles enunciated by Hon'ble Apex Court of **Jogendrasinhji Vijaysinghji Vs. State of Gujarat and others, (2015) 9 SCC 1.**

Appeal is dismissed.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.09.2021
Transmission Date	

