

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.49 of 2020

In

Civil Writ Jurisdiction Case No.2093 of 2016

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Shambhu Nath Tiwary son of Late Baban Tiwary, Resident of Village and
P.O. - Manikpur, Pakri, P.S. - Lalganj, District - Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Home Police Department, Bihar, Patna
3. The Director General of Police, Old Secretariat, Patna
4. The Inspector General of Police, Bihar, Patna
5. The Senior Superintendent of Police, Patna
6. The Superintendent of Police, Patna
7. The Superintendent of Police, Biharsharif, Nalanda
8. The Sergeant Major, Nalanda
9. The Sergeant Major, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Radha Mohan Pandey

For the Respondent/s : Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-07-2022

Heard learned counsel for the parties.

In the instant petition, appellant has assailed the order of the learned Single Judge dated 13.03.2019 passed in CWJC No.2093/2016. He is aggrieved by the order to the extent that he has been denied monetary benefits during the intervening period from the date of dismissal and reinstatement. The appellant was



dismissed from service on 04.05.2004 in terms of the superiors order dated 04.06.2003. The appellant was required to agitate in filing appeal against the order of dismissal within stipulated period of time which is provided under the relevant rules. Whereas the appellant has taken more than a decade in filing appeal. The same was taken note of by the authorities-respondents. To that effect objection was filed in the writ petition. In fact the appellant was taken back to duty in the year 2014 for denial of monetary benefits he is agitating before this Court. No doubt the appeal was disposed of in the year 2014 and appellant has invoked writ jurisdiction in the year 2016. At the same time, the appellant could not apprise this Court delay of one decade from the date of dismissal till filing of appeal. In fact the State-respondent have taken a lenient view in reinstating the appellant after lapse of more than one decade. In such circumstances question of extending monetary benefits during the intervening period from the date of dismissal i.e. 04.05.2004 till his reinstatement is not proper. The learned Single Judge rightly held that appellant is not entitled to any monetary benefits.

Learned counsel for the appellant has submitted that once the order of dismissal is set aside, in such circumstances, employees is entitled to all consequential benefits including



monetary benefits. Such a contention could have been appreciated provided the conduct of the petitioner in pursuing the dismissal order was within reasonable period of time. The appellant has taken more than a decade in questioning the validity of the dismissal order before the appellate authority. Apex Court recently in the case of State of Uttar Pradesh & Ors. Vs. Krishna Bahadur Singh reported in **(2021) 11 SCC 812**.

“6. As the record indicates, the respondent had participated in the enquiry proceedings and later chose to remain ex parte. The challenge raised at his instance was 11 years after the initial order, on which ground alone, the challenge should have been dismissed.

7. In the circumstances, we allow this appeal, set-aside the orders passed by the Tribunal and the High Court and dismiss the claim petition preferred by the respondent.

8. However, considering the facts and circumstances and particularly the fact that the respondent has been litigating for fairly long time, we direct the appellants to pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) by way of ex gratia payment to the respondent. Let the sum be made over to the respondent within six weeks from today.”

Having regard to the conduct of the appellant, to the extent that he slept over the matter for more than one decade, in such an event appellant is not entitled to any monetary benefits. Ordering reinstatement itself is on sympathetic ground and it is



beneficial to him from the year 2014 to till retirement. Hence there is no merit in the LPA. Accordingly, no interference is called for in respect of order dated 13.03.2019 passed in CWJC No.2093/2016 and LPA stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
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