

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.177 of 2019

In
Civil Writ Jurisdiction Case No.17735 of 2010

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1. The State Of Bihar through the Commissioner-cum-Secretary, Minor Irrigation Department, Government Of Bihar, Patna
 2. The Co-ordinator-cum-Chief Engineer, Tube Well Project, Muzaffarpur.
 3. The Finance Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
 4. The Chief Engineer, North Nalkup Prabhag, Muzaffarpur Minor Water Resources, Government of Bihar, Patna.
 5. The Executive Engineer, Tube Well Division, Siwan.

... .. Appellant/s

Versus

Harendra Prasad Singh Late Janak Singh resident of Village- Dewapur, P.S. Barauli, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar Sinha, AC to GA 9

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

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

Date : 01-08-2022

Heard learned counsels for the parties.

2. The State has filed this appeal. State is unable to apprise this Court by giving dates and events properly, for example, in the present case question for consideration is whether fixation of pay of the respondent is in order or not?

3. Pursuant to Rules or order Department decided to extend 01.01.1996 revised pay, the respondent have been extended pay @



of Rs. 4,000 – 6,000/- and it was sought to be recovered in the month of June, 2009 and further due to internal communication grievance of the respondent was rejected on 19.04.2010. At the same time, date of retirement of the petitioner is stated to be in the month of February, 2009. The respondent *Harendra Prasad Singh* was holder of the post of Electrician and it falls under Group C category. Faced with these material information, we find that there is no infirmity in the order of the learned Single Judge dated 20.06.2018 passed in C.W.J.C. No. 17735 of 2010. That apart recently Apex Court in the case of ***Thomas Daniel vs. State of Kerala and Others*, 2022 LiveLaw (SC) 438** wherein it is held that belated recovery is impermissible. In the light of Apex Court's decisions in the case of ***The State of Punjab vs. Rafiq Masih*** reported in **2015 (4) SCC 334** read with ***Thomas Daniel vs. State of Kerala and Others*, 2022 LiveLaw (SC) 438** appellants have not made out a case.

4. Accordingly, appeal stands dismissed.

5. At this stage, learned counsel for the appellant keep on harping that the respondent was extended pay scale on 27.05.2006. Further, he has not apprised this Court as to whether calculation of Rs. 4,73,000/- sought to be recovered in the absence of determination of calculation and no material have been placed



on record so as to ascertain from 27.05.2006 to the year 2009, will it be sum of Rs. 4,76,000/- in excess with reference to a Group C employee or not? Therefore, appellant – State counsel is not in a position to apprise this Court with the complete material information. Accordingly, petition stands dismissed with cost of Rs. 10,000/- (Rupees Ten Thousand). Cost shall be remitted in Patna High Court Legal Services Committee, Patna High Court for the reasons that appeal has been filed in the absence of complete material information.

6. At this stage, learned counsel for the appellant – State submitted that respondent has not disputed the excess amount stated to have been paid to the respondent. At the same time, the aforesaid issue cannot be apprised unless the appellant who has preferred the appeal satisfy the Court with reference to further complete material information. Accordingly, the aforesaid contention of the appellant stands rejected.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	05.08.2022
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