

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.385 of 2022

In
Civil Writ Jurisdiction Case No.9437 of 2021

-
1. The State of Bihar through the Principal Secretary, Water Resources Department, Bihar, Patna.
 2. The Chief Engineer, Central Design, Research and Quality Control, Water Resources Department, Patna.
 3. The Superintending Engineer, Quality Control (Irrigation Creation) Circle, Patna.
 4. The Executive Engineer, Quality Control (Irrigation Creation) Division, Nalanda (Biharsharif).
 5. Shri Krishna Kumar Singh Son of not known to the petitioner, presently posted as Head Clerk, Sone Canal Division, Bikramganj (Rohtas).

... .. Appellant/s

Versus

Kusum Kunwar Wife of Late Babunand Ram Resident of Village Shankardih,
P.O. - Sara, P.S. - Tarari, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anjani Kumar, AAG 4

For the Respondent/s : Mr. Harshvardhan Shiva Samundaram, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 14-11-2022

Heard Mr. Anjani Kumar, learned Additional Advocate

General No.4 for the State/appellant and Mr. Harshvardhan

Shiva Samundaram for the sole respondent.

The respondent had been removed from the service,
which order was challenged by her before the learned Single
Judge vide CWJC No. 9437 of 2021.



The learned Single Judge, after having found that before the order of termination was passed, the respondent was not heard, allowed the writ petition, who had obtained employment on compassionate ground after the death of her husband, a Class-4 employee. After setting aside the order of termination, the learned Single Judge gave liberty to the State to take action if it was warranted in accordance with the relevant provision of law. However, what has aggrieved the appellant/State is that the learned Single Judge has further observed that the State ought to extend all monetary benefits to the respondent within three months from the date of receipt of the order.

Mr. Anjani Kumar, learned AAG-4 has argued that if at all such liberty was reserved for the appellant/State, such observation was not warranted, for any extension of monetary benefit to the terminated employee would lead to a situation which would be difficult to be reversed, in case it was found that termination order was rightly passed. He therefore submits that at best, a time limit should have been given to the



appellant to conclude the proceeding if initiated against the respondent.

The learned counsel for the respondent however has submitted that nothing prevented the State from issuing notice as mandated by the learned Single Judge's order and conclude the proceeding. A contempt proceeding was filed by the respondent but only after expiry of four months. He further submits that till date, no notice has been issued to the respondents. Lastly it has been submitted that the terminated employee is a Class-4 employee.

After having heard the learned counsel for the parties, we deem it appropriate to direct that the order of the learned Single Judge be complied with and notice be issued to the respondent forthwith, not later than seven days, to be counted from today and, after receiving her response within next fifteen days and advertng to the same, a final order be passed within a further period of two months.

Till such time, the direction passed by the learned Single Judge of affording monetary benefits to the respondent shall remain in abeyance.



Needless to say that the respondent shall cooperate in the proceeding and on failure to do so, the proceeding may be concluded *ex-parte* but only after recording the non-cooperation of the respondent.

The order of the learned Single Judge stands modified to the extent indicated above.

The appeal stands partially allowed.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2022
Transmission Date	

