

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1126 of 2018

In
Civil Writ Jurisdiction Case No.6977 of 2016

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The State Of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Sushil Kumar and Ors son of Late Shiv Shankar Prasad Resident of Mohalla Sarvoday Nagar, P.S. Chatauni, District- East Champaran Motihari at working on the post of Accountant Investigation and Planning Division, G.A.D.A. Motihari
2. The Deputy Secretary, Command Area Development Authority, Water Resources Department, Patna
3. The D.D.C.-cum-Chairman, Gandak Command Area Development Authority, Muzaffarpur
4. The Superintending Engineer I and II, G.A.D.A., Muzaffarpur
5. The Executive Engineer, Investigation and Planning Division, Gandak C.A.D.A., Motihari
6. The Assistant Engineer Planning, Incharge Accounts, Gandak C.A.D.A., Muzaffarpur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anjani Kumar, AAG 4
Mr. Sanjay Prasad, AC to AAG 4
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-11-2022

Re: I.A. No. 6072 of 2018

Heard I.A. No. 6072 of 2018.



2. For the reasons stated in the application and affidavit, delay of 130 days in filing L.P.A. stands condoned. I.A. No. 6072 of 2018 stands allowed.

3. The State preferred appeal against order of the learned Single Judge dated 26.03.2018 passed in C.W.J.C. No. 6977 of 2016.

4. Core issue involved in the litigation is whether re-fixation of pay of the respondent and ordering recovery is in order or not? The learned Single Judge has taken note of Apex Court's decision rendered in ***State of Punjab and others vs Rafiq Masih White Washer*** and others reported in **(2015) 1 PLJR (SC) 261**. In fact he has extracted Paragraph 12, under what circumstances recovery can be ordered.

5. Despite the aforesaid judicial pronouncement, State has filed the present appeal. Perusal of the pleadings, it is evident that frivolous appeal is being filed, knowingly the judicial pronouncement insofar as re-fixation and recovery for the last seven years. Further recently Apex Court in the case ***Thomas Denial vs. State of Kerala and Others, 2022 Live Law (SC) 438*** reiterated under what circumstances recovery can be ordered. Hence, the present appeal stands rejected with Cost of Rs. 5,000/-



(Rupees Five Thousand). Cost shall be remitted in the Patna High Court Legal Services Committee, Patna High Court.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	30.11.2022
Transmission Date	

