

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1460 of 2018

In
Civil Writ Jurisdiction Case No.8382 of 2006

=====

Devendra Prasad Sinha Son of Late Narbdeswar Prasad, resident at Manki Niketan, East Patel Nagar Road No. 5, Police Station- Lal Bahadur Shastri Nagar, Patna- 800023.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Commissioner and Secretary to Govt. of Bihar Road Construction Department, Bihar, Patna.
3. The Special Officer-cum-Secretary, Road Construction Department, Bihar, Patna.
4. The Executive Engineer, Road Division, Road Construction Department, Jai Nagar.
5. The Accountant General, Bihar, Birchand Patel Path, Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ashok Kumar Dubey, Adv
Mr. Uma Shankar Singh, Adv.
For the Respondent/s : Mr. Jitendra Kumar, AC to AG -11

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

7 07-03-2022 Heard the learned counsel for the parties.

The appellant has challenged the order dated 29.08.2018 passed in C.W.J.C. No. 8382 of 2006, whereby the notification dated 02.03.2006 asking the appellant to



pay up Rs. 5,48,737.81/- from his retiral dues, has been refused to be interfered with on the ground that the aforesaid balance amount was pending with the appellant and he was required to pay the same.

The learned Single Judge took note of the fact that the appellant in his capacity as Assistant Engineer, Jainagar had been advanced an amount of Rs. 12.27 lacs for executing the work of construction of road; out of which, work was done to the extent of Rs. 6.78 lacs. The outstanding balance amount came to Rs. 5,48,737.81/-.

It was the case of the appellant before the learned Single Judge that the balance amount had been paid by him to a Junior Engineer by the name of Hema Nand Pathak and, therefore, no amount was required to be recovered from him.

The aforesaid contention of the appellant was not accepted and the learned Single Judge found that another Bench of this Court vide order dated 16.12.1997 in C.W.J.C. No. 6146 of 1997 had found that there was no fault in the department recovering the aforesaid amount given to the



appellant as advance money from his post retiral dues even when no punishment had been inflicted upon him.

The learned counsel for the appellant has brought to our notice, a communication dated 05.01.1990 issued by the Public Relations Officer -cum-Technical Advisor of the Road Construction Department ratifying that the balance amount of Rs. 5,70,626/- has already been recovered from the aforesaid Junior Engineer, namely, Hema Nand Pathak, the then Junior Engineer, Road Division, Jainagar after his retirement.

We would otherwise have remitted the matter to the learned Single Judge for taking into account the aforesaid development in the case but considering the fact that the entire amount due to the Government has already been recovered from the erring official, we do not intend to keep the aforesaid issue alive.

For the reasons afore-stated, the order dated 29.08.2018 passed in C.W.J.C. No. 8382 of 2006, is set aside. Resultantly, we also quash the notification dated 02.03.2006, whereby the sum of Rs. 5,48,737.81/- is



sought to be recovered from the appellant.

The appeal stands allowed accordingly.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

sunilkumar/-

U			
---	--	--	--

