

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.183 of 2021

In
Civil Writ Jurisdiction Case No.8618 of 2011

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1. The State of Bihar.
 2. That Commissioner - cum - Head Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna - 800015.
 3. The Engineering Chief - Cum - Special Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna - 800015.
 4. The Deputy Secretary to Government Government Government in the Department of Water Resources, Government of Bihar, Sichai Bhawan, Patna - 800015.
 5. The Under Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna - 800015.
 6. The Chief Engineer, Water Resources Department, Purnea.
 7. The Superintendent Engineer, Canal Circle, Water Resources Department, Purnea.
 8. The Executvie Engineer, Irrigation Division No. 1, Water Resources Department, Purnea as well as Irrigation Division, Water Resources Department, Bathnaha, Araria.
 9. The Executive Engineer, Irrigation Division, Water Resources Department, Katihar.

... .. Appellant/s

Versus

1. Tarkeshwar Prasad Singh son of Late Haribansh Prasad Singh resident of Ward No. 7, Chakla Nirmali, Supaul, P.S. - Supaul, District- Supaul.
2. The Deputy Secretary, Water Resources Department, Government of Jharkhand, Ranchi.
3. The Chief Engineer, Water Resources Department, Government of Jharkhand, Ranchi.
4. The Superintendent Engineer, Yojana Ayojan Anchal - Cum - Uran Dasta, Water Resources Department, Government of Jharkhand, Ranchi.
5. The Superintendent Engineer, Tenu Ghat, Dam Circle, Water Resources Department, Government of Jharkhand at Tenu Ghat, Distt- Bokaro (Jharkhand).
6. The Executive Engineer, Konar Canal Division, Water Resources Division, Bagodar, District- Giridhi (Jharkhand).
7. The Executive Engineer, Tenu Ghat, Dam Division, Water Resources Department, Tenu Ghat, Right Band, District - Bokaro (Jharkhand)
8. The Sub - Divisional Officer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District- Bokaro (Jharkhand).
9. Then Sub - Divisional Officer, Tenu - Bokaro Canal Sub division, Khanjo, Tenu ghat, District- Bokaro (Jharkhand), C/o - the Sub - Divisional Officer,



- Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District- Bokaro (Jharkhand).
10. Shree Madhav Prasad Singh, Then Junior - Engineer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District - Bokaro (Jharkhand), C/o - the Subn - Divisional Officer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District - Bokaro (Jharkhand).
 11. Shree Balram Pandey, Then Junior - Engineer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District- Bokaro (Jharkhand), C/o - the Sub - Divisional Officer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District - Bokaro (Jharkhand).
 12. Md. Habib, Then Employee, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, Distt - Bokaro (Jharkhand), C/o - Sub - Divisional Officer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, Distt - Bokaro (Jharkhand).
 13. Shree Deviki Kewat, Then Employee, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, Distt - Bokaro (Jharkhand), C/o - the sub - Divisional Officer, Tenu - Bokaro Canal Sub Division, Khanjo, Tenu Ghat, District- Bokaro, Jharkhand.
 14. The Sub - Divisional Officer, Konar Irrigation Sub Division, Water Resources Department, Saraiya, District- Giridhi (Jharkhand).
 15. Shree P.C. Sahu, Then Sub - Divisional Officer, Konar Irrigation Sub division, Water Resources Department, Saraiya, District- Giridhi (Jharkhand), C/o - the Sub - Divisional Officer, Konar Irrigation Sub Division, Water Resources Department, Saraiya, District- Giridhi (Jharkhand).

... ... Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kinkar Kumar, SC-9 Ms. Deepika Sharma AC to SC - 9
For the Respondent/s	:	Mr. Sanjay Kumar Pandey, Advocate

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

Date : 13-03-2023

Re.: I.A. No. 2 of 2021

The present Interlocutory Application has been
filed for condonation of delay of 352 days in preferring



the present appeal.

For the reasons stated in this I.A., the delay in preferring the appeal is condoned.

The I.A. No. 2 of 2021 stands allowed.

L.P.A. No. 183 of 2021

Heard Mr. Kinkar Kumar, the learned Advocate for the appellant/State and Mr. Sanjay Kumar Pandey for the Government of Jharkhand.

The punishment imposed on respondent has been set aside by the order of the learned Single Judge in CWJC No. 8618 of 2011 *vide* his judgment dated 13.02.2020, which is under challenge in the present appeal.

It appears from the records and the order impugned that a proceeding was initiated against the respondent no. 1 for having misappropriated an amount of Rs. 1000/- and of having caused loss of Government materials quantified at Rs. 2 lakhs. A proceeding against him was initiated in accordance with Rule 55 of the *Civil*



Services (Classification, Control and Appeal) Rules 1930,
which was in currency at the relevant time.

Ultimately, it was found in the proceeding that he had not returned an amount of Rs. 775/- and that he had caused losses of Government materials worth Rs. 2,28,505/-.

Based on such report of the inquiry authority, the respondent no. 1 was directed to deposit the sum of Rs. 775/- or that amount be adjusted against the advance taken by him and the amount of Rs. 2,28,505/- being the value of the articles, which was in his custody, to be recovered from the arrears of salary and subsistence allowance. However, the period during 01.06.1977 to 28.10.1985 was treated to be on duty.

For the period of suspension, the petitioner was made entitled to the subsistence allowance.

The matter was re-opened again when the Superintending Engineer, Tenu Ghat Dam Circle, Water Resources Department, Government of Jharkhand had



enquired into the matter, who also testified to the deficit of articles worth Rs. 2,28,505/- which articles were in the custody of the respondent no. 1.

The afore-noted amount was sought to be recovered from the pensionary benefits of the respondent.

The learned Single Judge, after having perused the inquiry report as well as the order impugned, found that the grounds taken by the respondent no. 1 was not at all taken into consideration before passing the order.

The order so passed was without any reason and no grounds were offered in the order holding the respondent no. 1 to be responsible for misappropriation of the articles under his charge. The inquiry report of the Superintending Engineer was relied upon entirely without any independent application of mind.

For these reasons, the learned Single Judge found the order impugned in the writ petition to be unsustainable in the eyes of law and set aside the same. A reason also has been given for not remanding the



matter back for taking any fresh decision. The respondent no. 1 had retired in the year 2007, and the proceeding was initiated against him in the year 1985.

This, to our mind is a good ground for not remanding the matter for any fresh decision by the authorities.

We do not find any reason to interfere with the order passed by the learned Single Judge.

For the afore-noted reason, we dismiss this appeal but without any order as to costs.

Interlocutory Application/s, if any, are also stand disposed of.

(Ashutosh Kumar, J)

(Harish Kumar, J)

krishna/shivank

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2023
Transmission Date	NA

