IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.87 of 2022
In
Civil Writ Jurisdiction Case No.1558 of 2021

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Binod Kumar Sinha S/o Late Mithlesh Prasad R/o - 202 Nandi Vatika, Dheera Chak, Near Sai Mandir, Patna - 800002.

... ... Appellant/s

Versus

1. The Union of India Through its Secretary, Department of Revenue, Ministry of Finance, government of India, New Delhi.
2. Chairman, Central Board of Director Taxes, Department of Revenue, Ministry of Finance, government of India, New Delhi.
3. Secretary, Central Board of Director Taxes, Department of Revenue, Ministry finance, Government of India, New Delhi.
4. Under Secretary, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
5. Joint Director, Data base Cell, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
6. Principal Chief Commissioner of Income Tax, Central Revenue Building, Patna.
7. Principal Chief Commissioner of Income Tax, Central Revenue Building, UP (East), Luckno.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. P.N. Shahi, Sr. Advocate
		Mr. Pankaj Kumar Sinha, Advocate
		Mr. Devesh Shankaran, Advocate
For the Respondent/s	:	Mr. Praveen Kr. Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-09-2023

The appellant was aggrieved by a transfer, of the year 2018 challenged in 2021. The learned Single Judge dismissed the writ petition on the ground of the long delay in challenging the order. As of now, the appellant is retired from service. The appellant, however, contends that there was a prayer in the writ petition against the denial of salary. The contention of the appellant is that though by Annexure-11, the appellant was relieved; by the time he attempted to join the post, to which he was transferred, another person had occupied the post as is seen from Annexure-15 at page-60 of the writ petition.

2. Merely from Annexure-15, it cannot be presumed that the person, who took over was the person posted as Joint Commissioner of Income Tax, Range-2, Moradabad. When a person is transferred from a post there is a temporary handing over of charge to another officer, so as to facilitate the new incumbent to join, after availing the joining time.

3. In any event, this a matter which has to be considered by the respondent no.2. If a representation is made to the respondent no. 2, the matter shall be considered and decided on the facts coming out from the records.

4. We make it clear that we have not made any observation as to the entitlement of the appellant for salary, which shall be considered at the sole discretion of respondent no. 2; but in accordance with law.

5. The appeal stands dismissed, however, with the above reservation.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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