

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.416 of 2021

In
Civil Writ Jurisdiction Case No.14662 of 2018

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Harendra Pati Tripathy S/o Late Birendrapati Tripathi, R/o Village- Belauti,
P.S.- Sahpur, District - Bhojpur.

... .. Appellant/s

Versus

1. The Bihar State Co-operative Bank Limited Ashok Rajpath, Patna.
2. The Chairman, the Bihar State Co-Operative Bank Limited, Ashok Rajpath, Patna.
3. The Managing Director of the Bihar State Co-operative Bank Limited, Ashok Rajpath, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Awadhesh Kumar Mishra, Advocate
		Mr. Jitendra Kumar George, Advocate
For the Respondent/BSCB:		Mr. Prashant Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 26-09-2023

Re: I.A. No. 01 of 2023

Heard I.A. No. 01 of 2023.

2. The present I.A. No. 01 of 2023 has been filed for
condonation of delay of 37 days in filing the present L.P.A.

3. For the reasons stated in the application and affidavit,
delay of 37 days in filing the present L.P.A. is condoned.

Accordingly, I.A. No. 01 of 2023 stands allowed.



4. In the present L.P.A. the appellant has assailed the order dated 06.04.2021 passed in C.W.J.C. No. 14662 of 2018. In brief, the appellant was working as night watchman with the respondent – Bank. For remaining unauthorized absent for a period of one month, his services were dispensed with in the form of dismissing him from service on 06.03.2004. It was subject matter of litigation in C.W.J.C. No. 8130 of 2008 and it was decided on 14.08.2014. It is necessary to extract paragraph No. 9 of the order dated 14.08.2014 and it reads as under:

“9. In the facts and circumstances of the case, this writ application is allowed and the impugned order of dismissal passed by the Managing Director of the Bank is set aside. However, as the petitioner absented himself and has not appeared even after newspaper publication, he would not be entitled to back wages for the period he absented, unless and until the same is adjusted against any other leave. However he would be entitled to any other admissible dues, which was pending prior to his unauthorized leave on 02.02.2004.”

5. Finding of the learned Single Judge in the order dated 14.08.2014 it is crystal clear that the petitioner has been denied back wages. Claiming back wages from the year 2004 to the year 2012, petitioner preferred a representation, it was rejected and was



subject matter of C.W.J.C. No. 7030 of 2017 and it was disposed of with observation to submit a detailed representation to the Bank insofar as claiming of arrears of salary. The same was rejected. Hence C.W.J.C. No. 14662 of 2018 has been filed. Grievance of the petitioner has been rejected by the learned Single Judge. Hence the present L.P.A. No. 416 of 2021.

6. Learned counsel for the appellant vehemently contended that once the order of dismissal is set aside as a result, the appellant is entitled to all consequential benefits including monetary benefits. Appellant has fresh cause of action in view of order passed in C.W.J.C. No. 7030 of 2017 read with later rejection of appellant's representation. Having regard to these facts and circumstances, appellant is entitled to monetary benefits from the date of dismissal till reinstatement in the year 2012.

7. Perusal of the records, it is evident that appellant's services were dismissed for remaining absent unauthorizedly for a period of one month and it was subject matter of C.W.J.C. No. 8130 of 2008 and it was decided on 14.08.2014, while setting aside the order of dismissal. However, back wages has been denied. Authority was to examine any kind of leave for absented period and it is to be adjusted if any. Further if any due prior to 02.02.2004, petitioner is entitle. From 14.08.2014 till



reinstatement is silent means it has been denied. Denial of back wages should have been questioned by the appellant in filing L.P.A. against the order dated 14.08.2014 passed in C.W.J.C. No. 8130 of 2008. On the other hand, he proceeded to prefer a representation. Thereafter, one more round of litigation. *Inter partes* judgment dated 14.08.2014 passed in C.W.J.C. No. 8130 of 2008 has attained finality. Therefore, no interference is called for insofar as order dated 06.04.2021 passed in C.W.J.C. No. 14662 of 2018.

8. Accordingly, present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.10.2023
Transmission Date	NA

