

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.982 of 2019

In

Civil Writ Jurisdiction Case No.3965 of 2016

=====

Sheo Nandan Singh, Son of Late Banarsi Singh, resident of Village Singhchak, P.S. Chanan, District Lakhisarai at present residing at Babu Tola, Amarpur, Road, P.S. Banka, District Banka.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Secretary, General Administration, Government of Bihar, Patna.
5. The Secretary, Rural Works Department, Government of Bihar, Patna.
6. The Joint Secretary, Rural Works Department, Government of Bihar, Patna.
7. The Special Secretary, Rural Works Department, Government of Bihar, Patna.
8. The Deputy Secretary, Rural Works Department, Government of Bihar, Patna.
9. The Engineer-in-Chief-cum-Additional Commissioner, - cum - Special Secretary, Road Construction Department, Government of Bihar, Patna.
10. The Secretary, Road Construction Department, Government of Bihar, Patna.
11. The Joint Secretary, Road Construction Department, Government of Bihar, Patna.
12. The Deputy Development Commissioner, (DDC), Munger.
13. The Block Development Officer, Lakhisarai Block District-Lakhisarai.
14. The Bihar Public Service Commission, (BPSC), Bailey Road, Patna through its Secretary.

... .. Respondent/s

=====

with

Letters Patent Appeal No. 149 of 2020

In

Civil Writ Jurisdiction Case No.3965 of 2016

=====

1. The State of Bihar through the Chief Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.



3. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Secretary, General Administration, Government of Bihar, Patna.
5. The Secretary, Rural Works Department, Government of Bihar, Patna.
6. The Joint Secretary, Rural Works Department, Government of Bihar, Patna
7. The Special Secretary, Rural Works Department, Government of Bihar, Patna.
8. The Deputy Secretary, Rural Works Department, Government of Bihar, Patna.
9. The Engineer-in-Chief-Cum-Additional Commissioner-Cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
10. The Secretary, Road Construction Department , Government of Bihar, Patna.
11. The Joint Secretary, Road Construction Department, Government of Bihar, Patna.
12. The Deputy Development Commissioner, (DDC), Munger.
13. The Block Development Officer, Lakhisarai Block, District-Lakhisarai.

... .. Appellant/s

Versus

1. Sheo Nandan Singh Son of Late Banarsi Singh Resident of Village Singhchak, P.S.-Chanan, District-Lakhisarai at Presently residing at Babu Toal, Amarpur Road, Banka. District-Banka.
2. The Bihar Public Service Commission, (BPSC), Bailey Road, Patna through its Secretary.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 982 of 2019)

For the Appellant/s : Mr. Ashok Kumar Chaudhary, Sr. Advocate
Mr. Bhola Kumar, Advocate
Mr. Akshansh Ankit, Advocate

For the Respondent/s : Mr. Dharendra Kumar, AC

(In Letters Patent Appeal No. 149 of 2020)

For the Appellant/s : Mr. Dharendra Kumar, AC
For the Respondent/s : Mr. Ashok Kumar Chaudhary, Sr. Advocate
Mr. Bhola Kumar, Advocate
Mr. Akshansh Ankit, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

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

Date : 17-01-2023



Heard these two Letters Patent Appeals filed by Sheo Nandan Singh and State of Bihar insofar as challenge to the order of the learned Single Judge dated 02.05.2019 passed in CWJC No. 3965 of 2016.

02. Appellant-Sheo Nandan Singh was involved in two criminal cases while he was in service. He was convicted in both the criminal proceedings on 21.12.2010. Taking note of the conviction order, the State proceeded to dismiss appellant-Sheo Nandan Singh on 31.12.2015, i.e., after five years from the date of conviction dated 21.12.2010. Before the appellate Court, in both the Criminal Appeals, he has been acquitted on 02.08.2017 and 13.02.2019 respectively.

03. In this backdrop, question for consideration is whether the appellant-Sheo Nandan Singh is entitled to monetary benefits during the period from the date of dismissal, i.e. 31.12.2015 till 31.01.2017, the date on which he would have retired from service, if he were in service. The appellant-Sheo Nandan Singh submitted representation to the State to regulate the intervening period from the date of dismissal till date of acquittal or till date of retirement in the month of January, 2017.

04. Learned counsel for the appellant submitted that the learned Single Judge has committed error in not quashing the order



of dismissal dated 31.12.2015. At the same time, he has taken a decision that the appellant-Sheo Nandan Singh is not entitled to any monetary benefits during the intervening period from the date of dismissal, i.e., 31.12.2015 till acquittal. However, he has made an observation that Appellant-Sheo Nandan Singh is entitled to pension from 18.02.2019. To that effect, the learned Single Judge has committed error.

05. Learned counsel for the State resisted the aforesaid contention of the appellant and further submitted that as long as order of dismissal is not set aside by the learned Single Judge question of extending any pensionary benefits is not warranted. Therefore, ordering pension by the learned Single Judge is incorrect.

06. Heard learned counsels for the respective parties.

07. Undisputed facts are that Appellant-Sheo Nandan Singh was involved in two criminal proceedings in which he was convicted on 21.12.2010. Based on conviction he has been dismissed from service on 31.12.2015. He had preferred criminal appeals and it was allowed on 02.08.2017 and 13.02.2019. Thus, both the orders of conviction dated 21.12.2010 were set aside. In this backdrop, question is whether the appellant-Sheo Nandan Singh is entitled to service benefits and pensionary benefits or not?



08. Dismissal order is based on the conviction and it is not outcome of departmental inquiry. If the conviction order is set aside in a criminal appeal, in that event, the appellant is entitled to regulate the services depending upon the facts of the case. In the present case, inadvertently learned Single Judge has not set aside the order of dismissal dated 31.12.2015. Accordingly, we proceeded to set aside the order of dismissal dated 31.12.2015.

09. Appellant-Sheo Nandan Singh is not entitled to monetary benefits from the date of dismissal, i.e., from 31.12.2015 to 31st January, 2017 as he has not discharged the duties of the post. Further, if an employee is convicted and acquitted later the intervening period cannot be regulated as a duty. In other words, tax payer money cannot be paid to an accused. No doubt he has been acquitted in both the criminal proceedings on 02.08.2017 and 13.02.2019. At the same time, during the intervening period from the date of dismissal, i.e., dated 31.12.2015 till 13.02.2019, he was a convicted person.

10. In the light of these facts and circumstances, order of the learned Single Judge dated 02.05.2019 passed in CWJC No. 3965 of 2016 stands modified. The appellant-Sheo Nandan Singh is entitled to only monetary benefits from 1st February, 2017 with reference to the date that had he been in service he would have



attained the age of superannuation and retired from service on 31st January, 2017. The intervening period from 31.12.2015 to 31.01.2017 be counted for the purpose of fixation of pension only. He is entitled to arrears of pension from 1st February, 2017 till date the same shall be calculated and disbursed in favour of him within a period of three months from the date of receipt of this order.

11. Accordingly, Letters Patent Appeal No. 982 of 2019 filed on behalf of Appellant-Sheo Nandan Singh stands allowed and Letters Patent Appeal No. 149 of 2020 filed on behalf the State of Bihar stands rejected.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

