

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1608 of 2019

In

Civil Writ Jurisdiction Case No.6694 of 2015

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1. Malti Singh, widow of Late Ratan Kumar Singh, resident of Flat No. L-2/25, Shri Krishna Puri (Boring Road), P.S.- Shri Krishna Puri, District-Patna.
 2. Manik Kumar Singh, Son of Late- Ratan Kumar Singh, resident of Flat No. L- 2/25, Shri Krishna Puri (Boring Road), P.S.- Shri Krishna Puri, District-Patna.
 3. Avinash Kumar Singh, son of late- Ratan Kumar Singh, resident of Flat No. L- 2/25, Shri Krishna Puri (Boring Road), P.S.- Shri Krishna Puri, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, New Secretariat, Vikas Bhawan, Baily Road, Patna.
2. Principal Secretary, Water Resources Department Government of Bihar, Sinchai Bhawan, Patna.
3. Engineer-in-Chief Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
4. Patna Municipal Corporation through the Municipal Commissioner, Maurya Lok, Block- 'C' P.S.- Kowali, Patna.
5. The Additional Municipal Commissioner- Establishment, Patna Regional Development Authority- (now dissolved)-cum- Patna Municipal Corporation, Maurya Lok Block- 'C' P.S.- Kotwali, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kishore Kumar Thakur, Advocate Mr. Braj Kishore Singh, Advocate Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha (AAG-7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-07-2023

The appeal was filed claiming Earned Leave for the period 09.09.2010 to February 2011, when the predecessor of



the appellants was admittedly absent from duty. The contention of the appellants is that the original writ-petitioner had joined duty after leave on 09.09.2010 and that in such circumstance he should have been granted Earned Leave for the period for which he had applied leave earlier.

2. The learned Single Judge rejected the application on the ground that the Municipal Commissioner, who was directed to examine the records, had taken specific stand that the records in the office do not support the claim of the employee that he submitted his joining during the said period. It was also stated that the original writ-petitioner was implicated in a criminal case and that during the said period he was not attending his duties and was continuously absent from 09.09.2010 to February 2011.

3. We specifically looked at the pleadings in the writ petition which indicate that the original writ-petitioner claims to have applied for leave from 01.08.2010 to 08.08.2010 due to the illness of his wife. The leave application is said to have been filed on 31.07.2010 which was also said to have been received by the Executive Engineer of PRDA. The leave application is produced as Annexure-3. There is no acknowledgment of receipt on Annexure-3, which is also not duly authenticated by a seal of



the office of the Executive Engineer. Yet again the original writ-petitioner goes on to say that the PRDA had been dissolved and merged with the Municipal Corporation. When the original writ-petitioner proceed on leave without stating any specific date on which it has been dissolved. It has also come out that there was an F.I.R. registered with the original writ-petitioner figuring as one of the accused in Vigilance P.S. Case No. 54 of 2010 dated 21.07.2010. The original writ-petitioner's contention is that he was not aware of the said Vigilance Case when he proceeded on leave. It has also to be noticed that there is no sanction of the leave applied for by the original writ-petitioner.

4. The further contention of the original writ-petitioner is that he reported for joining on 09.09.2010 in the headquarter of the dissolved PRDA. We are surprised by the said averment made especially since there could be no reporting made in the headquarters of a dissolved department. Again the document produced is Annexure-5 by which the employee wanted to establish that he had joined the PRDA Department, which admittedly was dissolved. We find no reason to call for the records as has been sought for by the learned counsel for the appellants.

5. We also see that the original writ-petitioner had



retired in 2013 and while he was in service he never made a prayer for Earned Leave before the authorities. The writ petition itself is of the year 2015, after two years of his retirement.

6. We find absolutely no reason to entertain the appeal. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Anushka/-

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CAV DATE	
Uploading Date	19.07.2023
Transmission Date	

