

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.742 of 2019

In
Civil Writ Jurisdiction Case No.13220 of 2008

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1. The State of Bihar through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
 2. The Director, Provident Fund, Bihar, Patna.
 3. The Deputy Secretary, Water Resources Department, Govt. of Bihar, Patna.
 4. The Under Secretary, Water Resources Department, Govt. of Bihar, Patna.
 5. The Chief Engineer, Water Resources Department, Darbhanga.
 6. The Executive Engineer, Western Canal Division, Benipatti, Madhubani.
 7. The Executive Engineer, Design Division No.3, Darbhanga Presently at Executive Engineer, Canal Division No.-2, Sakri, Madhubani.

... .. Appellant/s

Versus

- 1.1. Heera Devi Wife of Late Yogendra Narain Jha, resident of Village-Chainpur, P.s. Bangaon, District-Saharsa, Pin-852212.
- 1.2. Sunita Kumari daughter of Late Yogendra Narain Jha, wife of Satyendra Kumar Jha, resident of House of Smt. Nigam Pandey, Flat No. 5, First Floor (Near Bank of Baroda), Shiv Mandir, Mani Road, A.G. Colony, Patna (Pin-800025).
- 1.3. Sanjeev Kumar Jha, son of Late Yogendra Narain Jha, resident of Village-Chainpur, P.s. Bangaon, District-Saharsa, Pin-852212.
- 1.4. Rajeev Kumar Jha, son of Late Yogendra Narain Jha, resident of Village-Chainpur, P.s. Bangaon, District-Saharsa, Pin-852212.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Deepak Sahay Jamuar, Advocate
For the Respondent/s	:	Mr. Puroshottam Kr. Jha, Advocate
		Mr. Kumar Shubham, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

8 29-02-2024

Re: I.A. No. 01 of 2019

Heard I.A. No. 01 of 2019 for condonation of
delay in presenting the L.P.A. No. 742 of 2019, even though



sufficient cause has not been shown with reference to dates and events. Be that as it may, in the interest of State and the respondents have no objection to condone the delay. Accordingly, delay of one year five months twenty days in filing L.P.A. No. 742 of 2019 stands condoned, I.A. No. 01 of 2019 stands allowed.

2. With consent of respective parties, L.P.A. No. 742 of 2019 is taken for final disposal.

3. Deceased/Yogendra Narain Jha who was petitioner, was subjected to transfer on 07.05.1994. There was typographical error in respect of his name and in the result it was not given effect to. In other words, Yogendra Narain Jha continued in the post which was held by him as on 07.05.1994. Official respondents have taken note of such error in the transfer order and proceeded to rectify in the year 1997 i.e. after three years. Even after rectification of the same, it was not given effect to while relieving the Yogendra Narain Jha till 26.06.2000.

4. Faced with these dates and events official respondents denying salary to Yogendra Narain Jha during the period from 03.08.1997 to 17.12.1999. Whereas



officials/appellants have treated the intervening period from 07.05.1994 to 02.08.1997 as duty to that effect an order is stated to have been issued on 17.12.1999. Therefore, what remains is with effect from 03.08.1997 till 17.12.1999 how it has to be regulated. The officials/appellants were stated to have treated the aforementioned period as extraordinary leave. Feeling aggrieved by the decision of the officials/appellants Yogendra Narain Jha filed C.W.J.C. No. 13220 of 2008 and it was decided in his favour on 04.01.2018. Hence, the State L.P.A.

5. The appellants have not apprised this Court in what manner Yogendra Narain Jha had committed any error in not obeying the transfer order read with corrigendum and followed by relieving order on 26.06.2000. In the absence of any misconduct or misdeed committed by the Yogendra Narain Jha the aforementioned intervening period cannot be treated as extraordinary leave. If he had committed any alleged misdeed, domestic inquiry should have been resorted. No material has been placed on record. Therefore, appellants have not made a case so as to interfere with the order of the learned Single Judge dated 04.01.2018 passed



in C.W.J.C. No. 13220 of 2008.

6. Accordingly, the present L.P.A. No. 742 of 2019 stands dismissed with cost of Rs. 5,000/-. Cost shall be paid to one of the legal heirs of deceased Yogendra Narain Jha- viz., Respondent No. 1- *Heera Devi* within a period of eight weeks from the date of receipt of this order.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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