

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.581 of 2021

In

Civil Writ Jurisdiction Case No.8599 of 2017

Malay Kumar Singh Son of Late Dhir Narayan Singh, Resident of MIG House No. 338, Kankarbagh Colony, P.O.-Lohiya Nagar, P.S.-Kankerbagh, Patna, District-Patna.

... .. Appellant/s

Versus

1. The Bihar State Power Holding Company Limited through The Chairman-cum-Managing Director, Vidyut Bhawan, J.L. Nehru Marg, Patna.
2. The Secretary, Bihar State Power Holding Company Limited, Vidyut Bhawan, J.L. Nehru Marg, Patna.
3. The Joint Secretary, Bihar State Power Holding Company Limited, Vidyut Bhawan, J.L. Nehru Marg, Patna.
4. The Chief Engineer, Supply and Distribution, Bihar State Power Holding Company Limited, Vidyut Bhawan, J.L. Nehru Marg, Patna.
5. The Chief Engineer, Planning, Bihar State Power Holding Company Limited, Vidyut Bhawan, J.L. Nehru Marg, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manendra Kumar Sinha
For the Respondent/s : Mr. Vinay Kirti Singh

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

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

7 19-11-2024 The appellant Malay Kumar Singh who is the son of deceased employee Dhir Narayan Singh has assailed the order of punishment in a departmental enquiry to the extent of restricting the pension to 75 % by withholding 25%. Such order was passed on 28.01.2000, the same has not been assailed by the deceased employee Dhir Narayan Singh during his lifetime from



28.01.2000 till his death in the year 2009. In the year 2009 deceased employee's wife has been extended family pension. When matter stood thus deceased Dhir Narayan Singh son Malay Kumar Singh-appellant has assailed the punishment order dated 28.01.2000 in the year 2017. During the intervening period much water has flown. In fact cause of action accrued to the wife of the deceased Dhir Narayan Singh as on the date of death of Dhir Narayan Singh. Thereafter family pension has been accepted by wife of Dhir Narayan Singh from 2009 onwards. In other words, family pension has been fixed with reference to the fixation of pension with reference to the penalty order dated 28.01.2000. With these dates and events appellant Malay Kumar Singh has slept over the matter in so far as challenging the penalty order dated 28.01.2000 for about 17 long years therefore, no interference is warranted in so far as order of the learned Single Judge dated 21.08.2021 passed in C.W.J.C No. 8599 of 2017. Accordingly, Letters Patent Appeal stands dismissed.

2. At this stage, learned counsel for the appellant submitted that deceased Dhir Narayan Singh approached this Court in C.W.J.C No. 694 of 2013 in which he is stated to have assailed the penalty order as well as appellate authority's order



dated 01.10.2012. During pendency of the C.W.J.C No. 694 of 2013, deceased Dhir Narayan Singh died and the same has been recorded in the order dated 01.09.2016 and it reads as under :

“Learned counsel for the parties are present.

The petitioner has deceased.

This matter was adjourned because it was stated at the bar by Mr. Bajarangi Lal, learned counsel for the petitioner that the petitioner had deceased. To enable learned counsel to obtain instructions as to whether the legal heirs of the deceased petitioner would be interested in pursuing the matter that the proceedings were adjourned on 11.8.2016 and again on 18.8.2016. The matter thereafter been taken up today when Mr. Bajarangi Lal informs that he has no instructions in the matter. In the circumstance in absence of any petitioner to the writ petition, it can onl consigned to the records.

The writ petition is accordingly disposed of.”

3. Having regard to the order of the learned Single Judge dated 01.09.2016 legal heirs of Late Dhir Narayan Singh had a cause of action in so far as filing civil review or M.J.C to recall the order dated 01.09.2016 and restore C.W.J.C No. 694 of 2013 while substituting the petitioner Late Dhir Narayan Singh to that of legal heirs. Moreover, no liberty has been



granted to the legal heirs to file separate writ petition so as to file independent writ petition. On the other hand, legal heirs of deceased Dhir Narayan Singh have filed writ petition bearing C.W.J.C No. 8599 of 2017 and the appellant in the present appeal have not sought any permission of this Court in filing independent writ petition namely, C.W.J.C No. 8599 of 2017 taking note of these dates and events the appellants has not made out a case.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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