

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1085 of 2019

In
Civil Writ Jurisdiction Case No.20005 of 2013

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1. The State of Bihar through the Director Primary Education Cum Special Secretary, Government of Bihar, Patna.
 2. The Director Primary Education Cum Special Secretary, Government of Bihar, Patna.
 3. The Deputy Director Primary Education Cum Special Secretary, Government of Bihar, Patna.
 4. The Inspector of School, Siwan.
 5. The Deputy Inspector of School, Siwan.
 6. The Deputy Superintendent of School, Siwan.

... .. Appellants.

Versus

- 1(i) Sanjay Pratap Singh.
- 1(ii) Mritunjay Pratap Singh.
Both are sons of Late Dharamraj Singh, Resident of Village- Done, Police Station- Darauli, District- Siwan.
2. The Head Master of Town Madhya Vidyalaya, Mairwa, District Siwan, Resident of Village- Done, Police Station- Darauli, District- Siwan.
3. Kumari Vidyawati Daughter of Sri Sugiwa Singh Resident of Village- Done, Police Station- Darauli, District- Siwan.

... .. Respondents.

Appearance :

For the State-Appellants : Mr. Ram Vinay Prasad Singh, AC to GA-XII.
For the Respondents : Mr. Vijay Shankar Tewary, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 03-10-2024

I.A. No.1 of 2019:

Heard I.A. No.1 of 2019 for condonation of a delay
of about 250 days in filing the present L.P.A. No.1085 of 2019.

2. It is State L.P.A. for condonation of delay, they



have assigned the reasons as usual in respect of obtaining opinion of the Law Department, learned Advocate General and file was under movement with the concerned department.

3. Even though sufficient cause has not been shown to condone the delay in filing the present L.P.A. No.1085 of 2019, having regard to the fact that certain financial implications are involved in the matter, we are of the view to condone delay of about 250 days in filing the present L.P.A. No.1085 of 2019.

4. The respondent no.1-Dharamraj Singh (deceased) has filed objection to I.A. No.1 of 2019 for condonation of delay of 250 days in filing the present L.P.A. No.1085 of 2019 to the extent that sufficient cause has not been shown in paragraphs-7, 8 and 9 of I.A. No.1 of 2019. He has taken one more contention that there is a latches on the part of the respondents. The ground of latches is not available to the respondents for the reasons that there was file movement among the officials of the State-appellants.

5. In the light of these facts and circumstances, the delay of about 250 days in filing the present L.P.A. No.1085 of 2019 stands condoned while exercising our discretion and I.A. No.1 of 2019 stands allowed.



I.A. No.3 of 2024:

6. Heard I.A. No.3 of 2024 in bringing the legal heirs of the respondent no.1 (deceased) Dharamraj Singh on record (substitution of respondent no.1).

7. I.A. No.3 of 2024 stands allowed.

8. State-appellants are hereby directed to amend the cause title of the present L.P.A. No.1085 of 2019 while incorporating name of Sanjay Pratap Singh and Mritunjay Pratap Singh in place of respondent no.1 (deceased) Dharamraj Singh during the course of the day.

L.P.A. No.1085 of 2019:

9. Today, learned counsel for the State-appellants submitted that the State-appellants is facing Contempt of Court Proceedings, therefore, the matter may be taken up for final disposal for which respondents' counsel has no objection.

10. Petitioner/Respondent no.1 Dharamraj Singh (deceased) was appointed as a Teacher in the then Town Madhya Vidyalaya, Mairwa, District-Siwan. The said Institution was taken over by the State Government on 31.05.1983. After taking over the Institution on 31.05.1983, the services of the petitioner/ respondent no.1 (deceased) have not been recognized and he was also taken as a Government



Teacher. On this count, he had filed multiple litigations. There was no fruitful result to the extent that he should be declared as a Government Teacher with effect from 31.05.1983. It is also to be noted that as and when the aforementioned Institution was taken over on 31.05.1983, petitioner/respondent no.1 (deceased) ceased to be teacher of the Institution since there is a change in status that the aforementioned school has been declared as a Government School. The petitioner/respondent no.1 (deceased) has not agitated his right and seeking declaration that he would be declared as a Government School Teacher with effect from 31.05.1983, the date on which Town Madhya Vidyalaya, Mairwa, District-Siwan was taken over by the State Government. To that effect, there are no decisions of the State Government or any judicial pronouncement. In the absence of such declaration and having a status of a Government Teacher, petitioner/respondent no.1(deceased) is not entitled to any service benefits from the State Government. These dates and events have not been appraised by the learned Single Judge while deciding the petitioner's/respondent no.1's (deceased) petition on 22.11.2018 in C.W.J.C. No.20005 of 2013. For extending any service benefits in the State Government, one must have status of a Government Servant and legal and



statutory vested right. Moreover from 31.05.1983, deceased employee remained unemployed, in such circumstances, he has not agitated his right in the manner known to the law at relevant point of time. Thereafter, he is not governed by various Rules like Bihar Service Code, Bihar Pension Rules etc. Therefore, the petitioner's/respondent no.1(deceased)'s litigation against the State Government is without any statutory right vested with the petitioner/respondent no.1 (deceased). Accordingly, the State has made out a case to interfere with the order of the learned Single Judge dated 22.11.2018 passed in C.W.J.C. No.20005 of 2013 and it is set aside.

11. Accordingly, C.W.J.C. No.20005 of 2013 is dismissed and the present L.P.A. No.1085 of 2019 is allowed. Pending Interlocutory Application(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2024.
Transmission Date	NA

