

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.766 of 2023

In

Civil Writ Jurisdiction Case No.526 of 2020

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-
1. Pramod Kumar Mishra, Son of Late Shiya Sharan Mishra, Resident of Village- Mirjapur, P.O.- Pitamberpur, P.S.- Ghosi, District- Jehanabad (Bihar).
 2. Sushila Devi, D/o Late Shiya Sharan Mishra, Wife of Purshottam Mishra, Resident of Village- Mirjapur, P.O.- Pitamberpur, P.S.- Ghosi, District- Jehanabad (Bihar) and presently residing at Village- Sherpur, P.O. and P.S.- Karpi, District- Arwal (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, New Secretariat, Patna.
2. The Executive Engineer, Flood Control Drainage Division, Purnia.
3. The Superintending Engineer, Flood Control and Drainage Circle, Purnea.
4. The Chief Engineer, Flood Control and Drainage Department, Katihar, Camp, Purnea.
5. Awadhesh Kumar Mishra, Son of Late Siya Sharan Mishra, C/o Mahendra Dubey, Resident of Mohalla- Babuchak, Milki, P.O.- Acchua, P.S.- Paliganj, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dhanendra Choubey, Advocate
Mr. Dineshwar Tiwary, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY



ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 25-02-2025

Re. I.A. No. 01 of 2023 :-

The aforesaid interlocutory application has been filed seeking condonation of delay of six days in preferring the present Letters Patent Appeal.

2. For the reasons stated in the application, the delay of six days in preferring the appeal is, hereby, condoned.

3. I.A. No. 01 of 2023 stands allowed.

Re. L.P.A. No. 766 of 2023 :-

4. Heard the learned counsel for the parties.

5. There appears to be a fight amongst the brothers and sister of an employee who died in harness.

6. Amongst the brothers and the sister, an arrangement was made that Awadhesh Kumar Mishra, the eldest of the sons of the deceased employee, would get appointment on compassionate ground, whereas the other brother and the sister would share the post-



retiral/death benefits of the deceased employee.

7. It appears that Awadhesh Kumar Mishra, despite having obtained appointment on compassionate grounds, reneged on his undertaking of not claiming any share in the post-retiral/death benefits of his late father. He had approached this Court *vide* C.W.J.C. No. 526 of 2020, stating that he ought not to be compelled to surrender his share in the post-retiral/death benefits of his late father.

8. The learned Single Judge rightly disallowed such a prayer, taking it to be a disputed question of fact and personal dispute and by the judgment impugned dated 19.04.2023, relegated the matter to the concerned authority, which had to take a call on the representation made by the writ-petitioner/Awadhesh Kumar Mishra.

9. The judgment in no way adversely affects the right of the present appellants, who are brother and sister of Awadhesh Kumar Mishra respectively.

10. There is no flaw in the judgment,



necessitating any interference by this Court.

11. However, the concerned authority shall take into account that Awadhesh Kumar Mishra got appointed on compassionate ground and is now reneging from his promise to allow the other brother and sister to share the post-retiral/death dues of the deceased employee.

12. The appeal stands disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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