

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.719 of 2022

In

Civil Writ Jurisdiction Case No.769 of 2020

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Awadhesh Kumar, S/o Late Bishnudev Prasad, resident of Village
Dhargawana, P.S. Mehshi, District-East Champaran (Motihari).

... .. Appellant/s

Versus

1. The State of Bihar through The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Special Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Officer on Special Duty, Water Resources Department, Government of Bihar, Patna.
6. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
7. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna.
8. The Chief Engineer, Water Resources Department, Muzaffarpur.
9. The Superintending Engineer, Tirhut Canal Division, Water Resources Department, Muzaffarpur.
10. The Accountant General Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Priyank Samdarshi, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG-4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

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

Date : 05-02-2025

Heard learned counsel for the parties.

2. *Prima facie*, there is no delay in filing CWJC



No. 769 of 2020 insofar as challenge to rejection of Memorial dated 20th August 2019 which is the final order. It is to be noted that earlier order imposing punishment dated 23.10.2013 was sought to be withdrawn on 30th May 2016. In the meanwhile, appellant's CWJC No. 6906 of 2015 in which penalty order dated 23.10.2013, was subject matter was decided on 09.04.2019 reserving liberty to the petitioner to invoke Rule 24 (2) of the Bihar Government Servants (Classification Control and Appeal) Rules, 2005. Resultantly, he had filed Memorial (Review) on 01.05.2019/16.05.2019 and it was rejected on 20.08.2019. Learned Single Judge has not noticed that penalty order dated 23.10.2013 has been withdrawn on 30th May 2016 and a fresh order of withholding of 10 per cent pension has been ordered and it was also subject matter of memorial which authority has rejected on 20th August 2019.

3. Taking note of the error committed by the learned Single Judge order dated 05.09.2022 passed in CWJC No. 769 of 2020 stands set aside. CWJC No. 769 of 2020 restored on file. Registry is directed to list CWJC No 769 of 2020 before the concerned roster Bench. Whatever the observation made by the learned Single Judge on the issue of delay in filing writ petition stands overruled. The learned Single



Judge is requested to decide CWJC No. 769 of 2020 on merits at the earliest.

4. Accordingly, LPA No. 719 of 2022 stands allowed to the above extent. Pending I.A.(s) if any stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.02.2025
Transmission Date	N/A

