IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.253 of 2022
In
Civil Writ Jurisdiction Case No.6449 of 2021

CNR No. BRHC010395962022

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1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Additional Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Division Siwan.
4. The Superintending Engineer, Water Resources Department, Siwan.
5. The Executive Engineer, Main Western Canal, Division Valmiki Nagar.

... ... Appellant/s

Versus

Rabi Bhushan, Son of Late Dawarika Prasad R/o Village - Chaiyapali, P.S. -Bhagwanpur hatt, District -Siwan, at present posted as Accounts Main Western Canal, Sub Division Surajpura, (Nepal).

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Rajeev Kumar Singh, GA-10.
For the Respondent/s : Mr.Chandra Kant, Advocate.
Mr. Sudhanshu Prakash, Advocate.
Ms. Ayushi Gupta, Advocate.
Ms. Karnika, Advocate.
Mr. Saksham Anand, Advocate.
Mr. Manish Kumar, Advocate.
Mr. Navin Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE ALOK KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 23-11-2026

Re.: I.A. No. 01 of 2022

Learned counsel for the appellants presses I.A. No. 01 of 2022 for condoning the delay of 107 days in preferring this appeal.

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2. For the reasons stated in the interlocutory application, the delay in preferring this appeal is condoned.

3. I.A. No. 01 of 2022 stands allowed.

Re.: L.P.A.No. 253 of 2022

4. Heard learned counsel for the parties.

5. The present *intra* court appeal has been preferred against the judgment dated 22.12.2021 passed in C.W.J.C. No. 6449 of 2021, whereby the writ petition preferred by the writ petitioner (respondent herein) came to be dismissed.

6. The brief facts of the present case are that the writ petitioner, Rabi Bhushan, was appointed on compassionate grounds as a Junior Accounts Clerk in August, 1998, following the death of his father. As per the terms of his appointment letter and the departmental circular contained in Memo No. 11946 dated 30.11.1984, he was required to maintain the dependants of his deceased father from his salary and emoluments.

7. Subsequently, his mother, Geeta Devi, lodged a complaint before the departmental authorities alleging that the petitioner was not maintaining her and her minor children. Upon consideration of her grievance and after hearing the petitioner, the Chief Engineer, Water Resources Department, Birpur, issued Letter No. 370 dated 07.06.2000, directing the petitioner to pay

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half of his salary and allowances to his mother for her maintenance.

8. The petitioner challenged the aforesaid departmental instruction dated 07.06.2000 before the learned Single Judge in CWJC No. 6449 of 2021, seeking its quashing and a direction to the respondents to release his full salary.

9. The learned Single Judge, *vide* judgment and order dated 22.12.2021, dismissed the writ application, while directing the concerned respondents to pay the petitioner the full salary for the period of three years preceding the filing of the writ petition and to continue paying the same. The relevant portion of the said judgment reads as follows:

> *"3. Petitioner's prayer is for payment of half salary from 07.06.2000. Petitioner had cause of action in the year 2000. The petitioner did not approach this Court on the score that there were certain family disputes due to which the respondents have delayed full salary and he has been paid only half salary.*
>
> *4. Concerned respondents are permitted to pay full salary from three years prior to presentation of this petition since there is delay and laches on the part of the petitioner. Petitioner shall be paid arrears of salary three years prior to presentation of this petition and continued to pay.*
>
> *5. Accordingly, the instant petition stands dismissed."*

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10. Aggrieved by the aforesaid judgment, the State authorities have preferred the present Letters Patent Appeal, contending that no deduction was ever made from the petitioner's salary by the departmental authorities.

11. Learned counsel for the appellants submits that no deduction was ever made from the petitioner’s salary and allowances by the departmental authorities, rather, he was paid his full salary and allowances and was merely directed to pay half of the same to his mother. It is further submitted that whenever the petitioner failed to comply with the aforesaid direction, payment of his salary was temporarily stopped and was restored upon payment of the arrears to his mother. Learned counsel further submits that the petitioner, having been appointed on compassionate grounds, was under an obligation, in terms of his appointment letter, to maintain the dependants of his deceased father. The departmental instruction dated 07.06.2000 was issued upon consideration of the grievance raised by his mother and was in consonance with the terms of his appointment. It is, thus, submitted that the learned Single Judge proceeded on an erroneous assumption regarding deduction of salary and that the impugned judgment is liable to be set aside.

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12. Learned counsel for the respondents submits that no interference is warranted with the order passed by the learned Single Judge, as upon consideration of the materials available on record the learned Single Judge has rightly declined to grant any relief to the appellants.

13. We have heard learned counsel for the parties and have also gone through the materials available on record.

14. The limited issue which arises for consideration before this Court is as to whether the order passed by the learned Single Judge suffers from any illegality, perversity or infirmity warranting interference in the appellate jurisdiction of this Court.

15. At the outset, it would be apposite to bear in mind that the jurisdiction exercised by this Court in an intra-court appeal is not intended to substitute the view taken by the learned Single Judge merely because another view is possible. In ***Baddula Lakshmaiah v. Sri Anjaneya Swami Temple,*** reported in ***(1996) 3 SCC 52***, the Hon'ble Supreme Court has explained that a Letters Patent Bench exercises jurisdiction as a Court of Correction. The appellate jurisdiction is, therefore, to be exercised in accordance with the settled principles governing such appeals. The relevant portion of the said order reads as

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follows:

> *"2. ... Against the orders of the trial court, first appeal lay before the High Court, both on facts as well as law. It is the internal working of the High Court which splits it into different 'Benches' and yet the court remains one. A letters patent appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a subordinate court. In such appellate jurisdiction the High Court exercises the powers of a Court of Error. So understood, the appellate power under the Letters Patent is quite distinct, in contrast to what is ordinarily understood in procedural language...."*

16. In the present case, the primary grievance of the writ petitioner was that, pursuant to the departmental instruction contained in Letter No. 370 dated 07.06.2000, he was being deprived of half of his salary and allowances. The learned Single Judge, while taking note of the fact that the cause of action had arisen in the year 2000 and that the petitioner had approached this Court after considerable delay, did not grant him the entire monetary benefit from the date of issuance of the aforesaid departmental instruction. Instead, the relief was restricted to the period of three years preceding the presentation of the writ petition.

17. The aforesaid approach of the learned Single Judge finds support in the law laid down by the Hon'ble

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Supreme Court in ***Union of India v. Tarsem Singh,*** reported in ***(2008) 8 SCC 648***, wherein it has been held that in cases involving a continuing wrong in service matters, relief may be granted notwithstanding delay, particularly where no third-party rights are affected. However, so far as the consequential monetary relief is concerned, the arrears are normally required to be restricted to a period of three years preceding the filing of the writ petition. The relevant portion of the said order reads as follows:

> ***"7.*** *To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a*

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> *consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.*
> ***8.*** *In this case, the delay of sixteen years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to sixteen years, and that too with interest. It ought to have restricted the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances."*

18. Applying the aforesaid principles to the facts of the present case, it is evident that the learned Single Judge has taken a balanced approach. Although the departmental instruction in question was issued as far back as on 07.06.2000, the petitioner approached this Court only in the year 2021. The learned Single Judge, therefore, did not extend the monetary benefit from the date of issuance of the departmental instruction, but confined the relief to three years preceding the filing of the writ petition. Such restriction is in consonance with the settled principles governing the grant of monetary relief in service matters.

19. So far as the submission of the appellants that no deduction was ever made from the salary of the petitioner is concerned, it is pertinent to notice that the appellants themselves have stated that whenever the petitioner failed to comply with the departmental instruction dated 07.06.2000, payment of his

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salary was stopped and was subsequently restored upon payment of the arrears to his mother. Thus, the appellants' own case indicates that there were occasions when payment of salary to the petitioner was withheld. The mere assertion that no deduction was made from his salary, therefore, cannot by itself dislodge the basis of the direction issued by the learned Single Judge.

20. It is also relevant to notice that the appellants admittedly did not file any counter affidavit before the learned Single Judge. The grounds now sought to be urged in the present appeal, therefore, cannot, by themselves, establish that the learned Single Judge committed any error in passing the impugned order. The appellants' request to place additional documents on record would also have to be considered in accordance with law. In any event, the appellants have not demonstrated how the direction restricting the monetary relief to three years prior to the filing of the writ petition suffers from any legal infirmity.

21. We may also refer to the recent decision of the Hon'ble Supreme Court in ***Rajasthan Public Service Commission, Ajmer v. Yati Jain, 2026 SCC OnLine 80***, wherein the Hon'ble Supreme Court has reiterated that

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interference in intra-court appellate jurisdiction is warranted where the judgment under challenge is palpably erroneous or suffers from perversity. However, where the learned Single Judge has adopted a plausible view on the facts and circumstances of the case, the Division Bench ought not to substitute its own view merely because another view is possible. The relevant portion of the said order reads as follows:

> *"**50.** We may now understand the character as well as the nature of power exercisable by an appellate bench of a high court, comprising of two or more judges, when it derives authority either from the Letters Patent or the relevant statute to sit in appeal carried from an order passed by a judge of the same high court in exercise of writ jurisdiction, sitting singly, both on facts as well as law. It is the internal working of the high court which splits it into different 'Benches' and yet the court remains one. A letters patent appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder the Letters Patent Bench, sitting as a "Court of Correction", corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. We draw guidance for this settled legal proposition from the decision of this Court in Baddula Lakshmaiah v. Sri Anjaneya Swami Temple.*
>
> ***51.** When and how such an appellate power in the intra-court jurisdiction may be exercised? In our considered opinion, exercise of intra-court appellate jurisdiction could be called for if the judgment/order under challenge is palpably erroneous or suffers from perversity; but, it may not be exercised when two views are possible on a given set of facts and one of two views has been taken which is a plausible view."*

22. In view of the aforesaid discussion, we are of the considered opinion that the learned Single Judge has

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appropriately balanced the claim of the writ petitioner against the delay in approaching this Court by restricting the monetary relief to three years preceding the filing of the writ petition. The appellants have failed to demonstrate any illegality, perversity or infirmity in the impugned judgment warranting interference by this Court in its appellate jurisdiction. The issue framed is therefore, answered against the appellants.

23. Accordingly, the present *intra* court appeal stands dismissed.

24. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Alok Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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