

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.837 of 2018
In
Civil Writ Jurisdiction Case No.8324 of 2011

1. The State of Bihar
2. The Secretary, Department of Minor Irrigation, Vikash Bhawan, New Secretariat, Patna.
3. The Engineer-in-Chief, Department of Tube-well Co-ordinator, Minor Irrigation Department, Vishwashwaraiya Bhawan, Patna.
4. The Chief Engineer (South), Tube-well Unit, Minor Irrigation Department, Sheikhpura, Patna.
5. The Superintending Engineer, Tube-well Co-ordinator Unit, Minor Irrigation Department, Vishwashwaraiya Bhawan, Patna.
6. The Deputy Secretary, Minor Irrigation Department, Government of Bihar, Patna. null null
7. The Executive Engineer, Central Workshops Department and Trainur Institute, Patna.
8. The Sub Divisional Officer, Tube-well Division, Mohania, District-Bhabhua.

... .. Appellant/s

Versus

Rameshwar Rai Son of Sri Radha Rai, Resident of Village- Bagar, P.S.- Sikrahta, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pratik Kumar Sinha Ac To Ga 5
For the Respondent/s : Mr. Sanjeev Kumar Mishra Adv
Ms. Ankita Kumari Adv.
Ms. Manini Jaiswal Adv.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-12-2022

Re: I.A. No. 03 OF 2022

Heard I.A. No. 03 of 2022 for condonation of delay in filing L.P.A. For the reasons stated in the application and affidavit,



delay of 240 days in filing L.P.A is condoned.

I.A. No. 03 of 2022 stands allowed.

The state has assailed the order of the learned Single Judge dated 19.09.2017 passed in C.W.J.C No. 8324 of 2011. Respondent-Rameshwar Rai was a class IV employee. He was subjected to parallel proceedings on the alleged allegations that he had stated to have created document in respect of staying the operation of deputation order. Criminal proceeding was concluded in acquittal. On the other hand, in the disciplinary proceedings it was concluded in imposition of penalty of reduction in pension permanently by 20% under Rule 43(b) of Bihar Pension Rules, 1950, treating the period of absence as unauthorized absence. In other words, suspension period has been treated as suspension only in terms of Rule 97(2) and (3) of Bihar Service Code.

2. Feeling aggrieved and dissatisfied with the order of penalty dated 04.06.2010 respondent invoke remedy under Article 226 of the Constitution in filing C.W.J.C No. 8324 of 2011 and it was allowed on 19.09.2017, hence, the present L.P.A on behalf of the State.

3. Learned counsel for the appellant vehemently contended that the alleged allegation is serious in nature. No doubt he has been acquitted in criminal proceedings. The same would not bar in taking action under the disciplinary proceedings. It is further submitted that learned Single Judge has not appreciated earlier order



of this court.

4. *Per Contra*, learned counsel for the respondent resisted the aforesaid contentions and submitted that there were serious lacunae in the disciplinary proceedings committed both by the inquiring officer and disciplinary authority and the same is reflected in the order of the learned Single Judge. It is further submitted that punishment is of the year 2010, petitioner has already undergone pain and hardship from the date of initial inquiry till day and he is aged about 70 years. It is further submitted that in a criminal proceeding he has been acquitted. Therefore, there is no infirmity in the order of the learned Single Judge.

5. Heard learned counsel for the respective parties.

6. The respondent was subjected to parallel proceedings for the alleged allegations relating to creation of fake document in the name of the then Hon'ble Chief Minister to the extent of staying the deputation order. In the criminal proceedings respondent has been acquitted and in disciplinary proceedings he has been punished which is the subject matter of present *lis*.

7. Having regard to the fact that respondent was a class IV employee and he has already undergone sufficient pain in facing parallel proceedings that suffice punishment for the alleged offence. No doubt it is a serious allegation in respect of creation of fake document in the name of the then Hon'ble Chief Minister in staying the operation of the deputation order. However, at this distance of



time it is not appropriate to remand the matter to the disciplinary proceedings to commence inquiry from the defective stage.

8. Moreover, learned counsel for the respondent No. 1 submitted that respondent is suffering from various old age illness and he is not in a position to attend further inquiry if it is order.

9. In the light of these facts and circumstances the appellants have not made out a case so as to interfere with the order of the learned Single Judge dated 19.09.2017 passed in C.W.J.C No. 8324 of 2011.

10. Accordingly, the present L.P.A stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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CAV DATE	
Uploading Date	07.12.2022.
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