

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No. 271 of 2019

In
Civil Writ Jurisdiction Case No. 1185 of 2019

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Fazal Karim, Aged About 73 Years, Gender Male, Son
of late Anwar Karim, Resident of 174 Paltiputra
Colony, Police Station - Patliputra, District -
Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Water
Resources, Government of Bihar, Patna.
3. The Under Secretary, Water Resources Department,
Govt. of Bihar, Patna.
4. The Chief Engineer, Master Planning Pant Bhawan,
Water Resources Department, Patna Range, Patna.
5. The Executive Engineer, Master Planning and
Investigation Division, Tilaiya, Hazaribagh.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Md. Anisur Rahman, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

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**(The proceedings of the Court are being conducted by Hon'ble the Chief
Justice/ Hon'ble Judges through Video Conferencing from their
residential offices/residences. Also, the Advocates and the Staffs joined
the proceedings through Video Conferencing from their**



residences/offices.)

Date : 31-05-2021

The instant Letters Patent Appeal has been preferred against the judgment dated 21st of January, 2019 passed by a learned Single Judge of this Court in C.W.J.C. No. 1185 of 2019, titled as Fazal Karim Vs. The State of Bihar & Ors.

2. Having heard Mr. Yogesh Chandra Verma, learned senior advocate, who seeks reliance upon a decision of the Hon'ble Apex Court in **D.V. Kapur Vs. Union of India, (1990) 4 SCC 314**, we are of the considered view that the appeal only merits dismissal, inter alia for the following reasons:-

(a). No infirmity or illegality can be found with the judgment rendered by the learned Single Judge, subject matter of the present appeal;

(b) the claim agitated in the writ petition is stale and highly belated;

(c) right to pension is regulated by the service condition which we find not to have been infringed in any manner.

3. Facts are short and simple. Since 1979 the



appellant was in service of the State. As an employee, in the year 1995 after due sanction, he proceeded on leave for a period of three months, effective from 10.05.1995. His prayer for extension of leave made vide communication dated 01.08.1995, stood rejected vide order dated 16.01.1996. Notwithstanding the same he failed to resume duties.

4. However, vide representations dated 01.02.1996 and 16.02.1996 he sought voluntary retirement under the Bihar Service Code (proviso to Rule 74(b)(i)) on the ground that he had attained the age of 50 years. Such request also stood dismissed on the ground of unauthorized absence from duty vide order dated 08.03.1996. Undisputedly, appellant did not lay any challenge to this order, resultantly disciplinary proceedings stood initiated against the appellant and despite compliance of principles of natural justice, of which we are satisfied, appellant chose not to appear and participate, leading to passing of final order dated 11.10.2000 dismissal from service.

5. Significantly, the order of dismissal is dated 11.10.2000 and the appellant chose to file the petition only in the year 2019. The delay remains unexplained.

6. That apart, the learned Single Judge has squarely dealt with all the issues factual and legal, and findings returned



are borne out from the record, not being perverse in any manner.

7. Principles of natural justice stand fully complied with. At every step the appellant was informed of the proceedings.

8. The decision rendered in **D.V. Kapur** (supra) does not, in any manner advance the appellant's case, for right to pension is governed by the rules of service, which also entitle the State to initiate proceedings in accordance with law. Rules do not stipulate grant of pension to an employee who stands dismissed from service.

9. As such, for all the aforesaid reasons, the present appeal is devoid of merit and is dismissed.

10. Interlocutory Application(s), if any, stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	01.06.2021
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