

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.217 of 2019

In
Civil Writ Jurisdiction Case No.5386 of 2015

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
 2. The Secretary, Minor Irrigation Department, Government of Bihar
 3. The Secretary, Water Resources Department, Government of Bihar
 4. The Executive Engineer, Tubewell Division Minor Irrigation Department, Begusarai

... .. Appellant/s

Versus

Bharat Kumar Jha, Son of Late Laxmi Narayan Jha, Resident of Village and P.O. Nawada, P.S.- Bahera, District- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Khurshid Alam, AAG 12
Mr. Arun Kumar Bhagat, AC to AAG 12
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(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 : 01-02-2022

This appeal has been filed under Clause X of the Letters Patent Appeal of the Patna High Court Rules, 1916 by the State of Bihar and its authorities against the order dated 23.09.2016 passed by learned Single Judge of this Court in **CWJC No.5386 of 2015 titled as Bharat Kumar Jha versus The State of Bihar & Ors.**

In terms of the impugned order, the learned Single



Judge quashed the order dated 07.07.2011 (Annexure-14 to the writ petitioner) whereby a sum of Rs.2,63,253/- was ordered to be deducted from the petitioner's account for pension and gratuity.

Writ petitioner/respondent herein having his track record of unblemished service for more than 30 years superannuated on 28.02.2009 and only thereafter the said amount was deducted, apparently on the ground that at some point of time during his service period, perhaps in the year 1996, his salary was erroneously fixed.

The learned Singe Judge allowed the writ petition holding the action to be impermissible in view of the decision of Hon'ble the Apex Court in **State of Punjab and others v. Fariq Mashi (White Washer) and others (2015) 4 SCC 334**.

The impugned judgment dated 23.09.2016 stands challenged by way of the instant appeal filed only on 30.01.2019. The delay of 827 days, in our considered view, remains unexplained. The only explanation being that the matter kept on rotating from one Department to another. Well, that cannot be a reason sufficient enough for condoning the delay, more so in the absence of any explanation forthcoming, explaining each days delay and action taken against the erring



persons, in the application filed seeking condonation of delay.

Accordingly, the appeal is dismissed on the ground of delay and laches.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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