
(2019) 12 JH CK 0182

In the Jharkhand High Court

Case No : Letter Patents Appeal No. 729 of 2019, I.A. No.10156 of 2019

Shyam Deo Prasad Singh

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2019) 12 JH CK 0182

Hon'ble Judges : Dr. Ravi Ranjan, C.J;Sujit Narayan Prasad, J

Bench : Divison Bench

Advocate : A. Allam, Nipun Bakshi, S. Bhoumik

Final Decision : Dismissed

Judgement

I.A. No. 10156 of 2019:

This interlocutory application has been preferred under Section 5 of the Limitation Act for condoning the delay of 32 days in preferring this Letters Patent Appeal.

Heard.

In view of the statements made in the interlocutory application, the delay in filing the appeal is hereby condoned.

This Interlocutory Application stands allowed.

L.P.A. No. 729 of 2019:

Heard learned counsel for the appellant and the State.

This appeal has been preferred assailing the part of the decision dated 22.07.2019 passed in W.P.(S) No.5153 of 2017 by which the direction for

payment of 10% of pension which has been deducted as per the punishment imposed upon the writ petitioner in a disciplinary proceeding, has not been

ordered to be paid rather, only gratuity has been ordered to be paid to the writ petitioner.

However, from perusal of the impugned order it is writ large that learned counsel for the writ petitioner had confined the writ petition for payment of

gratuity only which according to him was illegally withheld by the respondents, as such, direction was given by the writ Court for payment of gratuity.

Since there is already a direction for payment of gratuity, no further direction is required for that purpose.

So far withholding the payment of 10% of pension, it is contended that no such concession was given by the learned counsel at the time of hearing and

in fact it appears to be an error of record.

In our opinion, such submission can only be made by the appellant before the learned Single Judge who has decided the matter. The Division Bench, in

intra-court appeal, cannot pass any order contrary to that as error cannot be said to be apparent on the face of record.

On aforesaid observation made by this Court, learned counsel for the appellant seeks leave to withdraw this appeal to file a civil review application

before the Court concerned.

Accordingly, this appeal is dismissed as withdrawn with the aforesaid liberty granted to the appellant. However, this is again reiterated that this Court

has not formed or expressed any opinion with respect to the issue concerned.