
(2020) 02 PAT CK 0319

In the Patna High Court

Case No : Letters Patent Appeal No. 71 Of 2018, Miscellaneous Jurisdiction Case No. 4278 Of 2013

State Of Bihar And Ors

APPELLANT

Vs

Shatrughan Ray And Anr

RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0319

Hon'ble Judges : Dinesh Kumar Singh, J;Anil Kumar Sinha, J

Bench : Division Bench

Advocate : Chandra Shekhar Singh, Raghwanand

Final Decision : Dismissed

Judgement

The above mentioned Interlocutory Application has been preferred for condonation of delay of 119 days in filing the instant appeal.

On the ground mentioned in the Interlocutory Application, showing sufficient reasons for not filing the instant appeal within stipulated time, delay of 199 days in filing the instant appeal is hereby condoned.

Accordingly, I.A. No. 299 of 2018/01 of 2018 is disposed of.

The instant appeal has been preferred against the order dated 16.08.2017, passed in M.J.C. No. 4278 of 2013, which was filed for non-compliance of the order dated 28.07.2011, passed in C.W.J.C. No. 12762 of 2005, whereby the appellant was directed to grant promotion to respondent no.1 with retrospective effect, i.e., from 01.01.1998.

Learned Single Judge while hearing the contempt application, vide order dated 16.08.2017, directed the appellant to comply the order of the learned Single Judge passed in the writ application since direction issued by the learned Single Judge has attained finality as it has never been challenged.

Learned counsel for the appellant submits that the direction given by the writ

Court is against the circular of the Finance Department and hence the order of the writ Court cannot be given effect to as juniors to the writ petitioner was not given financial benefits.

Considering the fact that the order passed in the writ application has attained finality and it has never been challenged moreover, by the order passed in the contempt application, no order deciding the rights and liability of the parties has been decided, hence we do not think that the instant appeal is maintainable.

However, from perusal of the record of contempt application, it appears that contempt application has been disposed of, since by way of supplementary show cause dated 08.11.2017 filed by the respondents in the contempt application, they have accepted that the respondents were promoted and consequential benefits has been granted to them. Relevant portion of the order dated 21.02.2018, passed in M.J.C. No. 4278 of 2013 reads as follows:-

"From the show cause and supplementary show cause filed by the respondents on 08.11.2017, it is seen that promotion and consequential benefit have been granted to the petitioner. The consequential benefits granted and the manner in which they have been granted is indicated by the respondents in their supplementary show cause filed along with the documents and orders annexed thereto."

In that view of the matter, we are of the considered view that the instant appeal has become infructuous.

Accordingly, the instant appeal is dismissed as infructuous.