(2003) 04 PAT CK 0001

In the Patna High Court

Case No : L.P.A. No. 78 of 2002

The State of Bihar and Another — APPELLANT

Vs

Sri Ganesh Ram and Another — RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Citation : (2003) 04 PAT CK 0001

Final Decision : Dismissed

Judgement

1. The appeal is barred by limitation.

2. After having heard learned Counsel for the Appellant and having perused the averments made in limitation petition (I.A. No. 295/2002), we are of the view that sufficient grounds have been made out to condone the delay in filing the appeal. The delay is accordingly condoned. The aforesaid Interlocutory Application is allowed.

3. This appeal is directed against the order dated 18.7.2001 passed by the learned Single Judge whereby he has quashed the directions issued by the Senior Superintendent of Police, Patna directing for deduction of overpaid amount from the pensionary benefit of the Petitioner on the ground that he was wrongly given the increment during his service tenure though he passed the Hindi Noting and Drafting Examination subsequently, a few months prior to the date of his superannuation on 1.7.1999.

4. The learned Single Judge held that as there was no misrepresentation or fraud on the part of the employee, the said amount cannot be withdrawn subsequently from his pensionary benefits. We fully agree with the view taken by the learned Single Judge. The Apex Court in the case of Bihar State Electricity Board and Anr. v. Bijay Bahadur and Anr. held that since the payments have been made without any representation or a misrepresentation, no liberty can be given to the employer to deduct or recover the excess amount paid by way of increments at an earlier point of time.

5. In the result, there is no merit in this appeal. The appeal is accordingly dismissed.