

(2018) 01 PAT CK 0142

Patna High Court

Case No: Letters Patent Appeal No. 874 Of 2015 In Civil Writ Jurisdiction Case No. 23373
Of 2011

Commissioner, Patna Municipal
Corporation, And Ors

APPELLANT

Vs

Ruby Prasad And Ors

RESPONDENT

Date of Decision: Jan. 18, 2018

Citation: (2018) 3 PLJR 89

Hon'ble Judges: Ajay Kumar Tripathi, J; Nilu Agrawal, J

Bench: Division Bench

Advocate: Bindhyachal Singh, Ranjeet Kumar Pandey

Final Decision: Dismissed

Judgement

A frivolous appeal has been preferred on behalf of the Patna Municipal Corporation against the order of the learned Single Judge dated 18.03.2015.

The reason for saying so is that it is the Corporation, which had hired the erstwhile employee, Ajay Kumar Sinha, as an Assistant Engineer and he worked under the organization for 28 long years. He is dead now and has been substituted by his widow.

The erstwhile employee preferred the writ application for grant of benefit of 1st and 2nd Assured Career Progression (ACP). Since this is an anti stagnation scheme, therefore, the prayer was made.

Before the learned Single Judge, a plea was taken that his appointment itself is myriad in controversy. His services were never regularized or confirmed and, therefore, a stand was taken that the benefit of ACP can only accrue to a permanent / substantially appointed employee.

The learned Single Judge has taken note of the fact that the employee in question worked under the organization for 28 long years, he superannuated, he has been paid all his post retiral dues and even during the period of service, he had earned his increments and other benefits, which a regular employee is entitled.

It is too late in the day, therefore, to make out a case that when it comes down to grant of benefit of ACP, it cannot be extended in the given facts.

We do not agree with the argument of the learned counsel representing the Corporation. The facts speak of itself. For the adhocism prevailing in the

Corporation, a citizen cannot be made to suffer. He has served the organization uninterruptedly for 28 years and has now superannuated and is now

dead. He has not earned promotions in terms of the anti stagnation scheme then there is no reason why the benefit of ACP will not be extended to

him.

After the above, counsel for the Corporation submits that in the concluding part of the order, the learned Single Judge has been a little harsh in not only

giving a direction for payment of 8.5% interest per annum for non- grant and payment of ACP but has also imposed a cost of Rs.50,000/-.

We can well appreciate the reason why the learned Single Judge has given a direction for payment of interest and also imposed cost.

However, since the primary object behind the judicial adjudication was to extend the benefit to the citizen, which has already been extended, therefore,

the order of the learned Single Judge dated 18.03.2015 is not interfered with. The appeal is dismissed.

So far as payment of cost of Rs.50,000/- is concerned, the cost is reduced to Rs.25,000/-, which will be recovered in terms of the direction of the

learned Single Judge.