

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4434 of 2015

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Dinesh Prasad Verma son of Late Vidyapati Verma, resident of Mohalla-
Patanjali, P.O. & P.S.- Sasaram, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Co-operative Bihar
3. The Deputy Secretary, Co-operative Department, Bihar
4. The Registrar, Co-operative Societies, Bihar, Patna
5. The Managing Director, Sasaram-Bhabua Central Co-operative Bank
Ltd., Sasaram, District- Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Nandan Sahay, Adv.
Mr. Ravi Shankar Sahay, Adv.
For the State : Mr. Biresh Kr. Sinha, AC to AAG-2
For the Resp. No.5 : Mr. Ishwari Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 15-04-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application
reads as follows:-

"1. *That this is an application for issuance of a
appropriate writ in the nature of Mandamus
commanding the respondents directing them to
release of his salary from 1.5.1999 to 31.7.2007
with its statutory interest as the same is lying due
with the department."*

As a matter of fact, such a prayer for payment of
salary of the period 1.5.1999 to 31.1.2007 was not maintainable
because it was not in relation to dues of last three years, a
principle which has been laid down by the Apex Court in the case
of *Union of India & Ors. Vs. Tarsem Singh* reported in (2008)8 SCC 648

wherein the Apex Court had crystallized the law in the following terms:-

"8. *In this case, the delay of sixteen years would affect the consequential claim for arrears. The High Court was not justified in directing payment of arrears relating to sixteen years, and that too with interest. It ought to have restricted the relief relating to arrears to only three years before the date of writ petition, or from the date of demand to date of writ petition, whichever was lesser. It ought not to have granted interest on arrears in such circumstances.*"

Faced with this situation, learned counsel for the petitioner comes out to say that this amount which has been claimed in this writ application filed on 23.03.2015 by way of payment of salary for the period 1.5.1999 to 31.1.2007 is only on account of an order passed by the Labour Court, Dalminagar, Rohtas in Misc. Case No. 1 of 2010.

This Court has carefully perused the aforesaid order of the Labour Court which has not even been enclosed with the writ application and has been produced by the learned counsel for the petitioner in course of making his submissions and that too by way of a truncated copy without placing page no.2 thereof in the five pages orders. From reading of the said order, it becomes more than clear that that has not been passed either in terms of Section 10 or Section 33(C)(2) of the Industrial Dispute Act under which again the Labour Court gets power to pass any order for direction of

payment of salary. In fact since the aforesaid order has not even been brought on record and has been handed over to this Court by the learned counsel in truncated manner without placing the whole of such order, this Court would refrain from making any further comments on the correctness of the aforesaid order of the Labour Court.

As the petitioner had himself approached the forum of Labour Court under the Industrial Disputes Act, the remedy for implementation of the aforesaid order of the Labour court will also be before the Labour Court itself as provided in the Industrial Dispute Act. The Act very well provides that if any award or order has to be implemented by the concerned authority and the same is not done, that can be done only by way of filing of certificate case. This Court, therefore, must hold the present writ application to be wholly misconceived and ill advised.

In the result, this application fails and is hereby dismissed but, nothing said in this order shall come in the way of the petitioner in seeking his remedy under the Industrial Dispute Act.

(Mihir Kumar Jha, J)

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