

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3295 of 2014
In
Civil Writ Jurisdiction Case No. 10492 of 2013

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1. Raghav Prasad Sinha Son of Late Kesholal, Resident of Mohalla-Lekha
Nagar, P.S.-Danapur and District-Patna.

.... Petitioner/s

Versus

1. Dr. Sunil Kumar Singh Son of not known, Chairman, Bihar State
Co-operative Marketing Union Ltd. Biscoman Bhawan, Patna.
2. R.P. Singh, Son of not known, Managing Director, Bihar State
Co-operative Marketing Union Ltd. Biscoman Bhawan, Patna.
3. Sanjiv Lochan Mishra, Son of not known, Chief of Account
-Cum-Financial Controller, Bihar State Co-operative
Marketing Union Ltd. Biscoman Bhawan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar
For the Respondent/s : Mr. Rajendra Prasad

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER**

9/ 08-04-2015 The grievance of the petitioner is that opposite parties have not

complied with the order dated 16.01.2014 passed in CWJC no. 10492/2013 in

its true spirit.

Petitioner filed CWJC no. 10492/2013 which was disposed by this

court vide order dated 16.01.2014 directing the opposite parties to make all

admitted retiral dues of the petitioner to him within six months from the date

of receipt/production of a copy of the aforesaid order. The petitioner

approached opposite parties but his entire retiral dues was not paid to him.

Show cause has been filed on behalf of the opposite parties and it

has, specifically, been mentioned at para 4 of the show cause that group

insurance amount, gratuity and earned leave have already been paid to the

petitioner and so far as provident fund is concerned, administrative sanction



for payment has already been made and amount of provident fund shall be paid to the petitioner when his turn will come. Similarly, it has been mentioned at para 6 of the show cause that arrear of pay of the employees of Biscomaun is being paid in chronological manner in the light of order passed in LPA no. 778/2007 and when turn of the petitioner will come, arrear of salary shall be paid to him.

Learned counsel appearing for the petitioner submitted that this court vide order dated 16.01.2014 passed in CWJC no. 10492/2013, specifically, directed the opposite parties to make payment of all admitted retiral dues of the petitioner but admittedly, entire admitted retiral dues of the petitioner has not been paid to the petitioner as yet. It is further contended by him that in several cases, Coordinate bench as well as Division bench of this court directed the Biscomaun to make payment of retiral dues of its employees ignoring the chronological manner and in the light of orders of this court, payment of retiral dues including arrear of salary was paid to several employees of the Biscomaun ignoring the chronological manner and, therefore, Biscomaun can not take this stand that payment of retiral dues including arrear of salary is being paid to the employees in chronological manner. In support of his contention, he drew my attention towards annexures 3, 4, 5, 6, 7 and 8 of the reply.

On the other hand, learned counsel for Biscomaun submitted that, no doubt, some employees have got their retiral dues ignoring the rule of chronological manner but, as a matter of fact, all the above stated payments were made in the light of orders and directions issued by this court and, therefore, it can not be said that Biscomaun made payment to some employees breaking the chronological manner. It is further contended by him



that Biscomaun is facing financial crunch due to non-availability of the fund and the Biscomaun is not in a position to make payment of arrear of salary to its employees without adopting the procedure of chronological manner and, therefore, in the aforesaid situation, Biscomaun is ready to make the payment of admitted dues of the petitioner in chronological manner when turn of the petitioner comes.

Admittedly, in LPA no. 778/2007, Division bench of this court directed the Biscomaun to make payment of retiral dues of its employees in chronological manner as per availability of the fund. It is also an admitted position that in some cases, Coordinate bench as well as Division bench of this court directed the Biscomaun to make payment of retiral dues of its employees ignoring the chronological manner but it appears to me the decision taken by Division bench of this court in LPA no. 778/2007 was not discussed and the Coordinate bench as well as Division bench of this court passed the orders in some cases taking note of the facts of the said cases.

However, it is obvious from the aforesaid fact that order of Division bench of this court was passed in LPA no. 778/2007 since long back and it is very unfortunate that up till now, Biscomaun could not succeed to make payment of retiral dues of its employees and Biscomaun could not succeed to regularize payment of retiral dues of its employees.

It is an admitted position that the petitioner superannuated from service on 30.04.2012 and could not get his retiral dues till the date of passing of order dated 16.01.2014 in CWJC no. 10492/2013. It is also obvious that when this court directed to make payment of all admitted retiral dues of the petitioner, Biscomaun woke up and even then made part payment to the petitioner.

No doubt, Division bench of this court in LPA no. 778/2007 gave liberty to the Biscomaun to make payment of all admitted retiral dues of its employees in chronological manner but it does not mean that Biscomaun got licence to stop payment of retiral dues of its employees for an indefinite period. It appears that Division bench of this court gave the above stated liberty to the Biscomaun in LPA no. 778/2007 with object to ensure the payment of all retired employees of Biscomaun within a certain time framed and Division bench of this court was never intended to give indefinite period to the Biscomaun and to use the aforesaid liberty as a shield for not making payment of retiral dues of its employees.

Therefore, in the aforesaid circumstance, I direct the opposite parties to ensure payment of entire admitted retiral dues including arrear of salary of the petitioner within three months from the date of receipt/production of a copy of this order, failing which the petitioner shall be at liberty to take appropriate steps in accordance with law.

In the aforesaid manner, this contempt petition stands disposed of.

(Hemant Kumar Srivastava, J)

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