IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1313 of 1998
IN
Civil Writ Jurisdiction Case No 93 of 1997

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Bihar State Electricity Board through its Chairman, Vidyut Bhavan, Bailey Road, Patna

.... Appellant/s

Versus

1 (a) Nagina Devi, wife of late Ram Prasad Sinha
(b) Ajit Kumar, son of late Ram Prasad Sinha
(c) Prem Kumar, son of late Ram Prasad Sinha, resident of Village – Gangachak, PS – Masaurhi, District – Patna

2 Shri B N Sahay, Retired Director of Accounts, Bihar State Electricity Board, Vidyut Bhavan, Bailey Road, Patna

3 Electrical Executive Engineer, Electric Supply Division, Jehanabad

.... Respondent/s

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For the Appellant/s : Mr Vinay Kirti Singh, Advocate

For the Respondent/s : M/s Rajeev Lochan, Ram Prawesh Kr & Manisha Singh, Advocates

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 29-06-2015

A writ petition was filed by one Ram Prasad Sinha who was Head Accountant in the Bihar State Electricity Board (for brevity, *the Board*) at Patna. He had challenged the order of the Board passed in the year 1998, inter alia, holding that he had been wrongly granted pay protection about two decades back and further that he had been granted three increments on passing of departmental examination which increment ought to have been cancelled once he got a regular promotion which was not done. He had passed the departmental examination in or about 1973.

2 The Writ Court, after notice to the parties, allowed the writ petition and directed refund of the amount deducted on the aforesaid account by judgment and order dated 13.10.1998 passed in CWJC No 93 of 1997 which is under this intra-Court appeal.

3 The first thing to be noted is that on both accounts, where allegedly excess payments were made, they related to payments that were initiated to the early part of 1970s and that was being sought to be now recovered by order passed in the year, 1998. The second thing that is to be noted is there is no allegation anywhere that the writ petitioner had ever misled the authorities or persuaded the authorities wrongly to grant him the extra emoluments. The third thing to be noted is that during pendency of this Letters Patent appeal, it appears the writ petitioner was dismissed from service by order dated 22.05.2000 and within two weeks thereof, he died on 09.06.2000. The fourth thing to be noted is that all this revision and recovery were ordered merely because of an audit report without granting an opportunity to the writ petitioner to explain.

4 Now that the writ petitioner is dead and apparently also had been dismissed from service, no fresh proceedings can be ordered and, therefore, we are of the considered opinion that this appeal would rightly abate.

5 The appeal, thus, stands disposed of, in the aforesaid terms.

(Navaniti Prasad Singh, J)

(Rajendra Kumar Mishra, J)

M.E.H./-

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