

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 19527 of 2011

=====

Bhagwat Prasad, Son of Late Lal Bihari Prasad, Resident of New Colony, Baluahi, Kharkhura, P.O.- Railway Station, Gaya, P.S.- Delha, District- Gaya.

.... Petitioner/s

Versus

1. Bihar State Electricity Board through its Secretary Vidyut Bhawan, Bailey Road, Patna.
2. Chairman, Bihar State Electricity Board, Patna.
3. Secretary, Bihar State Electricity Board, Patna.
4. Financial Controller-I, Bihar State Electricity Board, Patna.
5. Director (Terminal Benefits), Bihar State Electricity Board, Patna.
6. General Manager-cum-Chief Engineer, Magadh Electric Supply Area, Gaya.
7. Electrical Executive Engineer, Electric Supply Division (Urban), Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Hirday Prasad &
Ms. Maruti Kumari, Advocates.

For the Respondent/s : Mr. Ajay Kumar Gautam, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

5 19-08-2015

Heard learned counsel for the parties.

The present writ application has been filed seeing a direction to the respondents to sanction and pay gratuity, pension in the revised scale, interest on GSS, leave encashment on the basis of revised pay and arrears of 6th pay revision.

It is agreed at the Bar that now all payments have been made. However, learned counsel for the petitioner submits that the GSS amount of Rs. 93,066/- which was due on the date the petitioner superannuated i.e., 31.01.2011 was finally paid to him only on 30.09.2011. Similarly, the leave

encashment amounting to Rs. 2,02,816/- was paid on 12.07.2014 and gratuity was paid in two parts i.e., 2,97,165/- was paid on 20.11.2014 and the remaining Rs. 3,02,773 on 29.12.2014.

Learned counsel submits that even as per Rule 8(i) of the Group Savings Scheme Rules, 1986 of the Bihar State Electricity Board, the GSS amount has to be paid promptly within one month of superannuation, failing which interest at the rate of 10% per annum shall be paid up to the date of payment. There has been no contest by the respondents on the point. Accordingly, this Court holds that the petitioner shall be entitled to statutory interest on GSS till 30.09.2011 i.e., the date of actual payment. With regard to the delay on other heads, the ground taken by the respondents is that the petitioner was facing departmental proceeding which was finally decided in the year 2014. It is submitted that one of the charges was defalcation. It is also submitted that the amount for which the petitioner was charged was Rs. 12,060/-.

In such a situation, this Court finds that there was no justification for the respondents to hold back the entire amount of leave encashment and gratuity since they could very well have held up an amount of Rs. 12,060/- only but had no authority to hold back the entire payment under the said heads. Thus, the Court relying on the decision of the



Hon'ble Supreme Court in the case of **D. D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.** reported in **(2014) 8 SCC 894**, holds that the petitioner shall be entitled to interest from the date they became due till the date of actual payment at the rate of 5% per annum on gratuity and 9% per annum on leave encashment.

Let all the abovementioned dues be calculated and paid to the petitioner within two months from the date of production of a copy of this order upon the respondent no. 6, failing which all the dues shall bear interest at the rate of 12% per annum which shall be recovered from the respondent no. 6.

The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

U		T	
---	--	---	--