

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2570 of 1999

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1. Bihar State Electricity Board, Bailey Road, Patna through the Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna-800001
 2. General Manager-cum- Chief Engineer, Tirhut Area Electricity Board, Muzaffarpur
 3. Electrical Superintending Engineer, Electric Supply Circle, Muzaffarpur
 4. Electrical Executive Engineer, Electric Supply Division (East), Muzaffarpur

.... Petitioners

Versus

1. The State of Bihar through the Secretary, Labour and Employment, New Secretariat, Patna
2. The Presiding Officer, Industrial Tribunal, Labour Building, Bailey Road, Patna
3. The Assistant Labour Commissioner, Muzaffarpur
4. Sri Harish Chandra Prasad Singh, son of Sri Surajdeo Singh, resident of village-Rampur, Post Office-Runni Saidpur, Police Station- Runni Saidpur, District-Sitamarhi, at present posted as Accounts Assistant, Tirhut Area Electricity Board, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. V.N.Sahay, Adv.

For the Respondent/s : Mr. Devendra Kumar Sinha, AAG-2
Mr. Braj Nandan Tiwary, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 03-09-2015

Heard Sri V.N.Sahay, learned counsel for the petitioner,

Sri D.K.Sinha, learned AAG-2, and Sri Saurendra Pandey, learned

counsel, who has appeared on instruction of Sri Braj Nandan Kumar

Tiwary, learned counsel for Respondent no.4.

2. The petitioner, invoking writ jurisdiction of this Court

under Article 226 of the Constitution of India, has prayed for

quashing of an order dated 05.07.1996 passed by the learned Assistant

Labour Commissioner, Muzaffarpur in B.S.E. Case no.1/94 and also



the Judgment and order dated 17.04.1998 passed by the Respondent no.2/ Presiding Officer, Industrial Tribunal, Patna & Appellate Authority under the provisions of Bihar Shops & Establishment Act in B.S.E. Appeal no.7/96. By order dated 05.07.1996, the Assistant Labour Commissioner had allowed the B.S.E. Case no.1/94, whereby deductions made from the wages of Respondent no.4 on the ground of penal rent of the Board's premises allotted by the petitioner was passed. The penal rent was recovered from the wages of Respondent no.4 for the period of six months @ Rs.3000/- per month. The total penal rent was recovered to the tune of Rs.20,327/-.

3. After hearing the parties and considering the fact that the Board had not produced any materials to show as to under which provision the deduction was made, the Assistant Labour Commissioner allowed the case filed by Respondent no.4. Besides directing for refunding deducted penal rent amount, the Assistant Labour Commissioner also directed the Bihar State Electricity Board to pay compensation of Rs.4000/- to Respondent no.4 of the present case.

4. Aggrieved with the order of the Assistant Labour Commissioner, the petitioner approached the appellate court by way of filing B.S.E. Appeal no.7/96. The appellate court i.e. the Presiding Officer, Industrial Tribunal affirmed the order of the Assistant Labour

Commissioner. However, he expunged the direction for paying compensation of Rs.4000/-. This was not the end of the matter. The petitioner being State instrumentality again in respect of such meager amount approached this Court by filing the present writ petition.

5. Of course, in the present writ petition by way of filing supplementary affidavit, the Board has brought on record the relevant office order/circular to show that if unauthorisedly the government premises is occupied beyond the period expired, the Board may impose penal rent on such illegal occupier.

6. Sri Sahay, learned counsel for the petitioners justifying the action of deduction submits that in deducting penal rent, no illegality has been committed. However, he accepts that the deducted amount is only Rs.20,327/-

7. Keeping in view the fact that the petitioner is an instrumentality of the State and the fact that the amount recovered was a meager amount, which was directed to be refunded by the Assistant Labour Commissioner and affirmed by the Appellate Court i.e. the Presiding Officer, Industrial Tribunal, the Court is of the considered opinion that without entering into merit of the case, this Court may not exercise its writ jurisdiction in favour of the petitioner. Accordingly without going into merit of the case, on the question of meager amount involved in the case, this Court is not interfering with

either of the order i.e. order passed by the Assistant Labour Commissioner as well as the order passed by the Presiding Officer, Industrial Tribunal and, as such, the writ petition stands dismissed.

(Rakesh Kumar, J)

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