

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7879 of 2014

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1. The Union Of India , through the Managing Director, Bharat Sanchar Nigam Limited, New Delhi.
 2. The Chief General Manager, Telecom (Bharat Sanchar Nigam Limited) Maintenance, Eastern Telecom Region, Kolkata - 700001.
 3. The Chief General Manager, Eastern Telecom Region, Telephone Kendra, P - 10, New, C.I.T. Road , Kolkata - 10.
 4. The General Manager (Maintenance), E.T.R. , 2nd Floor, North Block, C.T.O. Building, Budha Marg, Patna.
 5. The Assistant General Manager, E.T.R. , Telephone Kendra, 8th Floor, P - 10, New C.I.T. Road, Kolkata - 73.
 6. The Com. A.O. Officer of the C.O.A. , W.B.T. Circle, Division - III, E.T.R. - 8 , Esplanade East, Kolkata - 69.
 7. Senior Accounts Officer (Cash) Office of the G.M. , E.T.R. Patna.

.... Petitioner/s

Versus

1. Shiv Shankar Bhagat son of late Ram Dahin Bhagat Ex-Senior TOA (T.G.), office of the Divisional Engineer (Long Distance) Bharat Sanchar Nigam Limited, Patna; at present resident of Mohan Industries Lane, Saristabad, Naya Tola, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/S. Vishwa Mohan Kumar Sinha & Debanjan Choudhary

For the Respondent/s : M/S. M. P. Dixit & Sanjay Kumar Choudhary

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 18-08-2015

Shiv Shankar Bhatat filed O.A. No. 61 of 2009 before the Central Administrative Tribunal, Patna Bench, claiming certain retiral dues. Upon notice to the respondents, the matter was contested.

2. Basically, the issue was whether the applicant was entitled to the payment of gratuity and leave encashment. The Department did not contest so far as gratuity is concerned. The special



fact of the case was that the applicant had been charged under Prevention of Corruption Act, and had been convicted by Special Judge, C.B.I. His appeal was pending. Notwithstanding the aforesaid, the applicant was neither suspended nor any departmental proceeding initiated; to the contrary he was allowed to superannuate. It is under those circumstances that he moved the Central Administrative Tribunal. The Central Administrative Tribunal allowed the original application, holding that the respondents did not contest regarding the liability to pay gratuity, and there having no proceeding in relation to leave encashment, the same was directed to be paid. This order of the Central Administrative Tribunal, being order dated 25th January, 2010 passed in O.A. No. 61 of 2009 was challenged by the Union of India and others by C.W.J.C.No. 9509 of 2010, which was summarily dismissed by this Court on 16-9-2010, holding that the employee having been allowed to superannuate from service without there being any departmental proceeding or any order of punishment, and the Tribunal having held him to be entitled to all post retiral benefits, there is no good reason to interfere. This writ petition being dismissed, again a review application was filed before the writ Court, being Civil Review No. 56 of 2011, which was again dismissed by judgment and order dated 1-2-2012 giving liberty to Union of India, if so advised, at least if the circumstances so existed, to seek a review

from the Tribunal. Apparently, assured with such an observation, Review Application . No. 24 of 2012 was filed before the Tribunal. The Tribunal considered the same and held that the review application was barred by limitation, but then the Tribunal also noted the merits and held that there was no material to justify the review. The review application was, accordingly, dismissed. The writ petition has now been filed by the Union of India, challenging this order.

3. In view of the facts, noted above, we are not inclined to interfere. On merits, the order of the Tribunal has not been interfered with by this Court on the earlier occasion. By this second writ application what could not be done directly, cannot be permitted to achieve indirectly.

4. This writ petition is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

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