

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.800 of 2014

In

Civil Writ Jurisdiction Case No. 3307 of 2008

- =====
1. The Bihar State Electricity Board through its Secretary, Vidyut Bhawan, Bailey Road, Patna
 2. The Chairman, Bihar State Electricity Board through its Secretary, Vidyut Bhawan, Bailey Road, Patna
 3. The Secretary, Bihar State Electricity Board through its Secretary, Vidyut Bhawan, Bailey Road, Patna
 4. The Joint Secretary, Bihar State Electricity Board through its Secretary, Vidyut Bhawan, Bailey Road, Patna
 5. Swapan Mukherji S/o Late Mohan Lal Mukherji, resident of 204, Jai Kunj Apartment, Kidwaipuri, Patna

.... Appellants

Versus

Thakur Rabindra Kumar S/o of Sri Jagdish Chandra presently residing in Quarter No. B-11 BSEB colony, PS Shastri Nagar, in the town and district of Patna

.... Respondent

=====

Appearance :

For the Appellants : Mr. Vinay Kirti Singh, Advocate
Mr. Vijay Kumar Verma, Advocate
For the Respondent : Mr. S. K. Ghosh, Sr. Advocate
Mr. Anish Chandra, Advocate
Mr. Sanjay Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

and

**HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH)**

7 29-01-2015 Heard Mr. Vinay Kirti Singh, learned Counsel for the appellants and, Mr. S. K. Ghosh, learned Senior Counsel for the respondent.

A very short issue is involved in the present appeal, preferred against an order passed by learned single Judge, dated 14.05.2008, in CWJC No. 3307 of 2008, whereby learned single

Judge has directed the appellants to pay arrears of subsistence allowance to the sole respondent for the period during which he remained under suspension, by virtue of an office order, dated 13.09.2007.

Mr. Vinay Kirti Singh, learned counsel appearing on behalf of the appellants, has taken a very fair stand and has submitted that payment of arrears of subsistence allowance shall be made to the respondent only after he submits a certificate supported by affidavit to the effect that during the period in question, he was not gainfully employed elsewhere. He submits that the respondent avoided his attendance at Saharsa, which was fixed as his headquarter for the purpose of departmental proceeding and, therefore, he should submit such a certificate at Saharsa.

We do not find much force in submission that the respondent should submit the said certificate, at Saharsa, since he has been allowed to retire on attaining the age of superannuation. However, in view of submission made on behalf of the appellants, as noted above, we are of the opinion that the order of learned single Judge, passed on 14.05.2008, can be modified only to the extent that the appellants shall pay to the respondent the arrears of subsistence allowance for the period, in question, if the respondent

submits a certificate supported by an affidavit that he had not been, during the period, in question, was gainfully employed elsewhere.

The order passed by learned single Judge is accordingly modified to the extent that if the respondent submits a certificate, as indicated hereinabove, at Patna office of the Bihar State Electricity Board, to this effect within a period of one month from today, the appellants shall pay to him the arrears of subsistence allowance within a period of two months thereafter.

This appeal is disposed of in terms of the above observations and directions.

(I. A. Ansari, J)

(Chakradhari Sharan Singh, J)

BKS/-

U			
---	--	--	--