

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1636 of 2010

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1. Chandra Pati Lal S/O Late Jainarayan Lal Das R/O R.S.Tank,
Navtolia, Laheriasarai, P.S. Bahaddurpur, Distt-Darbhanga

2. Surya Naryan Sinha S/O Ramanugrah Mandal R/O Vill Lakshmipur
, P.S. Khanpur, Distt-Samastipur

3. Ram Chandra Poddar S/O Late Kuldeep Poddar R/O Vill & P.O. Suktia
Bazar, P.S. Gopalpur, Distt-Bhagalpur

4. Saraswati Devi W/O Late Gopal Prasad Singh R/O Vill Pachkothia,
P.S. & P.O. Shahkund, Distt-Bhagalpur

5. Ashok Kumar S/O Late Maheshwar Thakur R/O Vill & P.O. Safiabab,
P.S. New Ramnagar, Distt-Munger

.... Petitioners

Versus

1. The Bihar State Electricity Board Through Its Chairman Vidyut Bhawan,
Bailey Road, Patna

2. The Secretary, Bihar State Electricity Board Vidyut Bhawan, Bailey Road,
Patna

3. The Financial Controller-1, Bihar State Electricity Board Vidyut Bhawan
, Bailey Road, Patna

4. The General Manager-Cum-Chief Engineer Transmission Zone, New
Punaichak, Patna

5. The Electrical Superintending Engineer Transmission
Circle, Bihar Sharif, Nalanda

6. The Electrical Executive Engineer Transmission Division,
Hathidah, Distt-Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeeva Roy, Adv.

For the Respondent/s : Mr. Vinay Kirti Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 18-05-2015 Heard learned counsel for the parties.

The issue being raised in this writ application relating to
payment of over time to the petitioners as specifically reduced in
form of the following prayer:

“I. For commanding the respondents to pay the petitioners
the entire dues against the overtime wages which they have
earned by performing work beyond their duty period by
valid and sanctioned orders of the superior authorities to
which they are legally entitled.



II. For holding that the respondent Bihar State Electricity Board (hereinafter to be referred as the Board) and its officers are legally bound to pay the overtime wages to its employees for any number of hours of overtime work they have performed under valid and sanctioned orders of the concerned respondents notwithstanding the same being beyond 50 hours in a quarter and 150 hours in a year.

III. For commanding the respondents to pay the overtime wages of the petitioners of the entire period of overtime work taken from them by the Board and its officers.

IV. For holding that the respondents cannot take a stand that the Board is liable to make payment of overtime wages of overtime wages only to the extent of 50/150 hours in quarter/ year even though overtime works were taken from the petitioners much beyond the said hours, is totally against the provisions of legislations and not sustainable.

V. For holding that the respondent Board and its officers by refusing and/or withholding payment of overtime wages to the petitioners for the period beyond 50/150 hours in a quarter/ year instead of admitted position that overtime works were taken from the petitioners much beyond such period, made the Board and its officers liable to pay interest at the market rate over and above the overtime wages for the remaining period of overtime hours to the petitioners.”

in the considered opinion of this Court cannot be gone into in writ jurisdiction because it will require leading of evidence as to on what period there was an order issued by the competent authority to take work from the petitioner by way of over time and actually

to what period of work they had performed their duty.

Payment of wages is a service condition and so the issue of payment of over time also will be a service condition. The petitioners were/ are admittedly the workmen and thus, governed by the provisions of certified standing order which was in force by the then Bihar State Electricity Board now sought to be replaced by the Power Holding Company. Thus, if the petitioners being workmen are aggrieved in any form for payment of their wages they can have the relief only before the competent Labour/ Industrial court where the issue raised by the petitioners with voluminous documents, which have been sought to be relied by them, can be gone into by also giving a chance to the respondents to rebut the same.

The writ petition in any event will not be an appropriate remedy for claiming over time by a workman as defined under the Industrial Disputes Act and governed by the Certified Standing Order. The remedy under the Industrial Disputes Act being self contained would itself bar the jurisdiction of this Court as was held by the Full Bench of this Court in the case of **Dinesh Prasad Mandal Vs. The State of Bihar and others** reported in **1984 PLJR 1002**.

In that view of the matter, this writ application is disposed of with a liberty to the petitioners to move the appropriate Industrial/ Labour court.

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(Mihir Kumar Jha, J)

