

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2554 of 2014

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Ramendra Kumar Dubey Son Of Kali Prasad Dubey Resident Of Village
And P.O. Deokuli, P.S. Brahmpur, District- Buxar

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary Co-Operative Department, Bihar, Old Secretariat Bihar, Patna
2. Chief Secretary Food And Supply And Consumer Protection Department, Old Secretariat, Bihar, Patna
3. The Managing Director, BISCOMAUN, Bihar, West Gandhi Maidan Bihar, Patna
4. The Joint Director, BISCOMAUN West Gandhi Maidan, Bihar, Patna
5. The Senior Regional Director BISCOMAUN, Buxar, District Buxar
6. The Special Officer Cum-Administrator, BISCOMAUN, Patna
7. The Chief Accountant BISCOMAUN, Bihar, Patna
8. The Chief Executive Officer, BISCOMAUN, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : .

For the Respondent/s : Mr. Ashok Kumar Keshri, AAG-11

For the BICOMAUN : Mr. Ishwari Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 02-02-2015

No one appears for the petitioner.

The prayer of the petitioner in this writ application
reads as follows:-

"3(I) *For issuance of a writ in the nature of certiorari for quashing Annexure-1, which has been passed by respondent no.3 M.D. BISCOMAUN vide order dated 6.6.2013 vide Memo No. Estbl/71/M/1/87 by which the petitioner has been forcefully retire giving V.R.S. under Bihar Service Code Rule 74(2) with immediate effect is illegal improper and not sustainable in the eye of law and fit to be quash.*

(ii) *For further issuance of writ in the nature of*



certiorari quashing Annexure-2 passed by M.D. BISCOMAUN on 12.7.2013 by which the order of said amount in question of Rs. 12,55,7,37/- the retrial benefits of the petitioner like arrears of salary, leave encashment, group insurance, G.P.F. and any other amount payable to the petitioner and pending in the department may be adjusted for the said amount is illegal, unjust improper not justified in the eye of law and fit to be quash.

(iii) *For issuance of writ in the nature of mandamus commanding and directing the respondents authorities to stop for such recovery from the post retrial benefit/pensionary benefits of the petitioner without any confirmation to proof that any such financial loss has been occurred from the act of the petitioner to the BISCOMAUN or/nor or any such corroborative evidence which could prove that these amount was either misappropriated directly by the petitioner or any such type of complain was made by any other agency or PAX to whom the cheques were issued and those were not honoured by the back dues to lack of amount, because both cheques were issued in favour of PAX for the said amount, which were dues up-on the BISCOMAUN for making payment of those PAX and the petitioner in compliance of his normal duty issued cheque on 10.11.2011 for the sum of Rs. 10,85,352/- only vide Cheque No. 792993 and a no-other cheque no. 792994 dated 12.11.2011 sum of Rs. 1,70,385/- was issued in favour of the Chairman of the said PAX, which has already delivered to them prior to issuance of any instruction or order came from the head office which was issued on 23.11.2011 and the said cheques were issued much prior of knowledge/communication of the order.*

(iv) *For issuance of a writ in the nature of direction to reinstate the petitioner on the said post a fresh from which*

the petitioner is arbitrarily removed from the service giving VRS under compulsion without any charge of misconduct or disobediences of the official order of the respondent no.3 M.D. BISCOUMAN because both the cheques were already issued much prior to the issuance of the said direction dated 23.11.2013 and the petitioner was not having any knowledge or communication of the said order and no such violation of the said order was made by the petitioner because he has not issued any other cheque further to any other PAX to disbursement of the any amount in favour of any PAX or agency and petitioner should continue the last date of his service and after natural retirement provide all the post retrial benefit to the petitioner and justified in the eye of law."

Learned counsel for the BISCOUMAN, having taken a preliminary objection with regard to maintainability of the writ application, has placed reliance on the judgment of Special Bench of this Court in the case of ***The Organizer, Dehri C.D. & C.M. Union Limited Vs. The State of Bihar & Ors.*** reported in 2014(1)PLJR 695.

Such preliminary objection on behalf of the learned counsel for the respondent is apt and appropriate.

This writ application is, accordingly, dismissed as not maintainable.

(Mihir Kumar Jha, J)

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