

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.579 of 2015

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Gopal Mishra Son of Late Bhola Mishra Resident of Village - Suja, P.O.
Suja, P.S. Mufassil, District - Begusarai

.... Petitioner

Versus

1. The Bihar State Power (Holding) Company Limited through its Secretary, Vidyut Bhawan, Bailey Road, Patna
2. The Joint Secretary, Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna
3. The General Manager - Cum - Chief Engineer, Koshi Electric Supply Region, Saharsa
4. The Senior Manager, Koshi Electric Supply Region, Saharsa
5. The Electrical Superintending Engineer, Electric Supply Circle, Saharsa
6. The Electrical Executive Engineer, Electric Supply Division, Khagaria
7. North Bihar Power Distribution Comp. Ltd. through its Managing Director

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganpati Trivedi, Sr.Adv.
Mr. Manoj Kumar Pandey, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 11-02-2015 Learned counsel for the petitioner prays for and is allowed to implead North Bihar Power Distribution Company Ltd. as respondent no.7.

Heard learned counsel for the parties.

Though the prayer of the petitioner in this writ application is for a number of relief as may be gathered from the relevant portion of paragraph no.1 reading as follows:

“(i) For issuance of writ in the nature of mandamus commanding and directing the respondents- authority to grant promotion to the petitioner under the Pay Scale of

Rs.5200-20200 and Grade Pay Rs.2900 to the post of Junior Line Man as the junior to the petitioner has been promoted to the said post.

(ii) For further direction to the respondents- authority to grant all the increment due since 2012 till date and also after calculation of the different amount paid dues to the petitioner.

(iii) For further direction to the respondents- authority to take final decision with regard to date of birth of the petitioner pending before the respondents- authority expeditiously.”

learned counsel for the petitioner has submitted that for the time being he will not like to raise any other issue save and except that once the petitioner was subjected to Medical Board for verification of his age and the Medical Board had also submitted its report on 29.5.2013, the officials of the respondent Company ought to have not kept the matter pending for such a long period of more than 1½ years. He explains that on account of this lack of an appropriate decision with regard to determination of age as per report of the Medical Board the petitioner's entire payment of salary, emoluments and other benefits have been withheld.

Mr. Vinay Kirti Singh, learned counsel appearing on behalf of the respondent Company, has submitted that there can be no two opinion now in view of the law laid down by the Apex Court and this Court that when a Medical Board gets any final

opinion with regard to age it is the lower side of the age which has to be taken into consideration by giving its benefit to the workman and in the case of the petitioner when the Medical Board has given its opinion on 29.5.2013 to be his being aged between 54 to 56 years the petitioner will be deemed to be 54 years of age as on 29.5.2013 and his all claims would have to be settled on this basis.

That being so, this Court would not find any scope for any further dispute and would accordingly direct the concerned officials to the respondent Company to ensure that whatever decision has to be now taken on the basis of the report of the Medical Board and the petitioner being aged 54 years on 29.5.2013 must be taken within a period of three months from the date of receipt of this order. It also goes without saying that if on account of such determination the petitioner becomes entitled for any financial benefit, that also must be paid to him within one month of such decision by the competent authority of the respondent Company.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

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