

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2920 of 2015

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Mohan Prasad Son of Late Brahmdev Prasad Resident of Pattipul , P.O. Digha
Ghat, P.S. Digha, District- Patna.

.... Petitioner/s

Versus

1. The Bihar State Road Transport Corporation , Pariwahan Bhawan , Birchand Patel Path, Patna-1 through its Administrator
2. The Administrator, Bihar State Road Transport Corporation, Pariwahan Bhawan, Birchand Patel Path, Patna.-1
3. The Chief Account Officer, Bihar State Road Transport Corporation, Pariwahan Bhawan, Birchand Patel Path, Patna.-1

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh

For the Respondent/s : Mr. Prabhat Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 20-04-2015

Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application

reads as follows:-

"1. ---- for commanding and directing the concerned authorities for the settlement of the claims related to the balance amount against the retiral dues represented by them alongwith relevant papers as well as further direction for equal treatment and the payment of the interest on delayed refunds of his accumulation in his contribution provident fund in terms of the judicial order and followed up the decision to the Administrator under memo no. 2349 dated 19.07.2014 with the litigating cost for unnecessary harassment."

3. Learned counsel for the petitioner has submitted that



though the petitioner had retired on 30.4.2000 but his payment of amount of provident fund was made only in the year 2008 and as such the petitioner would be entitled for payment of interest on the delayed refund. In this regard, he relies on an order of this Court in CWJC No. 9207 of 2012 which, according to him, has been affirmed up to the Apex Court. In this regard, he has also referred to an order of the competent authority of Bihar State Road Transport Corporation (hereinafter to be referred to as 'the Corporation') dated 19.7.2014 to contend that the Corporation has taken a decision to make payment of interest by way of complying the order passed by this Court and affirmed by Apex Court in the case of the petitioner in CWJC No. 9207 of 2012.

4. Mr. P.K. Verma, learned senior counsel for the Corporation, has submitted that the petitioner had retired on 30.4.2000 and his retirement benefit including amount of provident fund was settled in the year 2008 in terms of the direction given by this Court in earlier writ application filed by the petitioner. He has also submitted that the claim of the petitioner for payment of provident fund had already got settled and attained finality in terms of the earlier judicial order and that was directed to be not reopened in view of the appeal filed by the Corporation, LPA No. 1625 of 2013 wherein while affirming the order dated 21.3.2013 in CWJC No. 9207 of 2012, it

was clarified that such of the claim of payment of provident fund of the other employees of the Corporation which has earlier attained finality by a judicial order would not be reopened by virtue of the order passed by the learned Single Judge or the Division Bench.

5. This Court, having regard to the aforementioned observation of the Division Bench, had put a specific question to the learned counsel for the petitioner that as to whether the petitioner had moved this Court for claiming payment of provident fund. Such an answer of the learned counsel for the petitioner is in affirmative. He, however, has not produced such order. Nonetheless, he assures that the payment of entire amount of provident was already made to the petitioner in the year 2008. Of-course this also is an oral statement of the learned counsel for the petitioner because this fact also has not been mentioned in the writ application. In such a situation, when there are ample evidence in the form of admission of the learned counsel for the petitioner that the claim of payment of provident fund (CPF) of the petitioner had attained finality by a judicial order passed in the case of the file of the petitioner himself that cannot be reopened on the strength of the order passed in CWJC No. 9270 of 2012 or LPA No. 1625 of 2013, inasmuch as, the Division Bench had specifically recorded as follows:-

*"The Learned Single Judge has rightly observed that
the Supreme Court while accepting the undertaking to pay C P F*

accumulations did not grant liberty not to pay interest on delayed refunds. The alleged understanding of the appellant Corporation is but a desperate defence. We are also not inclined to interfere with the order in its applicability in-rem for two reasons. First, the Learned Single Judge has noticed payment of interest till date of payment to others and secondly for reason of the observations in Harihar Yadav (supra) as follows :

58....The employees who have died, their legal representatives are easily identifiable. A man in dire need cannot fight a litigation against two experimenting States to get his dues. It is the duty of the constitutional court, as submitted by Ms Priya Hingorani, that all should be paid their dues as this Court may think fit."

Only claims which have earlier attained finality by judicial orders cannot be reopened by virtue of the present order. With that modification, the appeal is dismissed."

6. At this stage, learned counsel for the petitioner has sought to rely on his representation dated 18.8.2014. A bare reading of that representation, this also goes to show that first of all he has not enclosed the complete representation because that refers to appendix A & B but that has not been made part of the writ application while enclosing the incomplete representation. That apart, from bare reading of the representation, it would transpire that he is claiming for time bound promotion or gratuity or even the amount of C.P.F. by his own calculation of Rs. 15,37,945/-. That however will be not the scope of the order of CWJC No. 9207 of 2012 or LPA No. 1625 of 2013 wherein the issue was confined to the payment of interest for the

delay caused in the payment of amount of provident fund. Nothing has been said in fact even in this representation referred to by the petitioner as contained in Annexure-1 much less the fact relating to date and amount of payment of provident fund to the petitioner. In that view of the matter, this Court would find it difficult to allow this writ application by following the order of the learned Single Judge in CWJC No. 9207 of 2012 specially when such order has been modified by the Division Bench as already quoted above.

7. In the light of the aforementioned observation, this application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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