

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7038 of 2015

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Brij Nandan Singh son of Shri Sheo Pujari Singh, Quarter No. 34, D.V.C Colony, Jakkanpur P.S. Gardanibagh, working as Assistant Operator in Sampatchak, Patna.

.... Petitioner/s

Versus

- 1.The Bihar State Power Holding Company Limited through its Chairman, Bailey Road, Vidyut Bhawan Patna.
- 2.The General Manager-cum-Chief Engineer, Bihar State Power Holding Company Limited, Transmission Zone, Punaichak, Patna.
- 3.The C.M.D., Bihar State Power Holding Company Limited, Vidyut Bhawan, Patna.
- 4.The Electrical Superintending Engineer, Transmission Circle, Patna.
- 5.The Executive Engineer, Transmission Sub-Division, Khagaul, Punaichak, patna.
- 6.The Accounts Officer, Transmission Circle, Patna.
- 7.The Electrical Executive Engineer, Transmission sub Division, Hatidah, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kr Singh No. 6 & Mr. Arvind Kr Singh, Adv

For the B.S.P.H.C.L : Mr. Vinay Kirti Singh, Adv, Mr. Vijay Kumar Verma, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 05-05-2015 Heard learned counsel for the parties as with regard to the following relief, prayed in this writ application:-

“for quashing of the order contained in Memo No. 337 dated 18.05.2007 of the Respondent NO. 5 whereby and where under it has been said about the petitioner that all the amount of the over time bill has been paid to the petitioner and except that no amount of over time shall be paid to him. Further the respondents be directed to make payment of entire over time bill/duty with interest to the petitioner for which work has taken as over time duty from him and for that payment has not been made to him.”



Learned counsel for the petitioner while assailing the aforesaid order dated 18.05.2007, has submitted that when the fact regarding working of the petitioner on over-time has not been controverted by the respondents but then a decision has been taken by them by restricting payment of certain hours of over-time work will be wholly arbitrary and illegal.

Learned counsel for the respondents on the other hand has referred to the provisions referred to in the impugned order where the maximum period of over-time had been fixed by the Bihar State Electricity Board under which a workman was supposed to work for 50 hours in a trimester and 150 hours in a year. According to Mr. Verma, admissible payment of over-time had already been made to the petitioner and nothing more was found payable as per the impugned speaking order dated 18.05.2007.

In the considered opinion of this Court, this writ application must fail on the ground of delay alone as the



impugned order was passed on 18.05.2007, pursuant to a direction given by this Court in its order dated 20.02.2007 in C.W.J.C No. 2834 of 2006 but the petitioner, himself, has sought to assail the impugned order dated 18.05.2007, by filing this writ application on 04.05.2015 i.e almost after 8 years of the cause of action.

Delay apart, the respondents have given a valid and justified reason for the amount of over-time already paid to the petitioner. Let it be noted that the petitioner had been claiming payment of over-time from 01.04.1997 to December, 2005. For each of the year, the respondents have indicated the number of over-time hours which was found to be admissible and payable to him. The respondents have also rightly referred to the Board's decision of restricting the work of over-time of 50 hours in trimester and 150 hours in a year.

Today, if the petitioner disputes such amount of over time on the ground that he had worked for some

more period there would be hardly any records now traceable on the basis of which such claim can be verified.

Let it be noted that in order to verify such claim of over-time, order of the superior authority under whose direction an employee has to perform his duty has to be necessarily seen and examined and infact no employee can claim over-time as a matter of right on the basis that he has worked for more time. Thus the payment of overtime allowance itself being based on of documentary evidence, if the petitioner has himself approached this Court after 8 years of the cause of action, this Court would hardly find any reason to redirect the respondents to examine the case of the petitioner. The maximum life of a document like over-time under the Bihar State Electricity Board Accounts Code is 5 years. Thus, those records being even available for the Board from which such verification can be made, the claim of petitioner for payment of erstwhile

cannot and should not be entertained by this Court.

In that view of the matter this Court does not find any error in the decision taken by the respondents on the merit of the case.

That being so, for the reasons indicated above this application must fail both on the ground of delay as well as on merits. It is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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