

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22653 of 2011

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Lal Babu Singh son of Late Gauri Karan ,P.O. Pachpokhari, P.S. Nokha (Baghaila)

District Rohtas, Sasaram

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Energy, Govt. of Bihar, Patna
2. The Bihar State Electricity Board Patna through its General Manager Cum Chief Engineer, Central Electricity Supply Area, Patna
3. The General Manager Cum Engineer, Central Electricity Supply Area, Patna
4. The Joint Secretary, Bihar State Electricity Board, Patna
5. The Electrical Executive Engineer, Electric Supply Division, Rohtas, Sasaram
6. The Personnel Officer, Rohtas Electric Circle, Sasaram
7. Baliram Singh son of Late Gauri, resident of Village- Karan, P.O.-Pachpokhari, P.S.-Nokha (Bahghaila)

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Chhotelal Mishra, Advocate

For the Respondents No. 1 to 6 : Mr. Ajay Kumar Gautam, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 28-08-2015

Heard learned counsel for the petitioner and learned

counsel for the respondents.

Despite valid service of notice on respondent no. 7 in the year 2011 itself and learned counsel entering appearance also, nobody is present when the case is taken up.

The dispute in the present writ petition relates to payment of gratuity due to the late father of the petitioner who died in harness.

Learned counsel for the petitioner submits that consequent upon the father dying, the petitioner and the respondent no. 7, who are full brothers, and only heirs of the deceased employee had reached an agreement by which the respondent no. 7, who is the younger brother of the petitioner, was to get employment on compassionate ground whereas the other death-cum-retiral benefits were to be taken by the petitioner. Learned counsel refers to Annexure-3, which is a joint affidavit by the petitioner and the respondent no. 7, and indicates that as per agreement the appointment on compassionate ground was taken by the respondent no. 7 whereas other benefits including gratuity was to be taken by the petitioner. It is submitted that pursuant to the same, the respondent no. 7 has been granted employment but gratuity amount of Rs. 1,50,000/- has still not been paid to the petitioner though other benefits have been paid to him. It is further submitted that succession suit has since been

dismissed. However, learned counsel submits that once based on the same affidavit, the other benefits have been given to the petitioner whereas employment has been given to the respondent no. 7, the respondents cannot insist for succession certificate.

Having considered the facts and circumstances of the case, without getting into the legality and merits of the case as to who would be entitled to such payment in law, since the agreement between the two brothers had been acted upon and employment given to the respondent no. 7, who is the younger brother, and the remaining dues of the late employee having already been paid to the petitioner, coupled with the fact that despite valid service and appearance being filed on behalf of the respondent no. 7 neither any counsel is present nor any counter has been filed, the Court can only presume that the respondent no. 7 is not interested to contest the matter.

Accordingly, the writ petition stands disposed off with a direction to the respondents no. 2 to 6 to make payment of the remaining gratuity amount due to the late father of the petitioner within four weeks from the date of production of a copy of this order before the respondent no. 5.

(Ahsanuddin Amanullah, J)

Anjani/-

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