

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17568 of 2008

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Dhanrajee Devi, Wife of Late Sri Ram Briksh Prasad, resident of Village- Sonebarsa,
P.S. Sone Nagar, P.S. Barun, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar

2. The Secretary, Bihar Electricity Board, Patna.

3. The General Manager-cum-Chief Engineer, Central Bihar Area Electricity Board,
Patna.

4. The Electrical Superintending Engineer, Electrical Circle, Gaya (West).

5. The Electrical Executive Engineer, Electric Supply Division, Aurangabad (West).

6. The Deputy Director Accounts, Central Bihar Area Electricity Board, Patna.

7. The Accounts Officer, Gaya Electrical Circle, Gaya (West).

8. The Assistant Electrical Engineer, Electric Supply Division, Navinagar, District-
Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 18-08-2015

Heard learned counsel for the parties.

3rd supplementary counter affidavit has been filed on behalf of the respondent Power Company.

The grievance of the petitioner in the present writ application is that though he was in service of the respondents since the year 1959 but in the year 1972 he was removed from service which was followed by an order of reappointment in the year 1973 and thus his entire period from 1959 should be counted for the purposes of pensionary benefits which has not been done and he has been paid for the service period from the year 1973, i.e., subsequent to his reappointment.

Learned counsel for the petitioner submits that he was removed from service by order dated 13.09.1972 and later on he was reappointed by order dated 15.01.1973 in which it has clearly been mentioned that the earlier order of dismissal was superseded. It is thus submitted that both on the ground that the earlier order of dismissal was superseded and the subsequent reappointment order itself mentions that it was on the promotional post and not the basic post, the obvious import would be that even though the petitioner may not be entitled to salary and other emoluments for not having worked during interregnum period but for all other practical purposes, including counting of his service for pensionary benefits, any break in the period he was out of service stood waived and continuity had to be

maintained from the year 1959.

Learned counsel for the Power Company has raised a preliminary objection and submits that the petitioner having superannuated in the year 1998 has approached this Court only in the year 2008, that is, after 10 years despite the fact that he had been paid his pensionary dues upon his superannuation in the year 1998 counting his service from the year 1973 and thus the petitioner having acquiesced to such a situation, cannot be granted indulgence by reopening a closed matter.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, this Court thus finds substance in the contention of learned counsel for the Power Company. However, once the facts have been placed before the Court which indicate that there may be scope for fresh consideration of the case of the petitioner, the application stands disposed off with liberty to the petitioner to approach the competent authority to consider his case after taking a decision with regard to the period from 05.06.1972 to 15.01.1973 as to whether the same would be counted for the purposes of maintaining continuity in his service or not.

If such a representation is filed within four weeks from today along with a copy of this order before the General Manager (H.R.), South Bihar Power Distribution Company Limited, Patna, the

same shall be considered within six weeks thereafter. It is made clear that the decision of the authority concerned shall be final and shall not give a fresh cause of action to the petitioner who shall abide by the same.

(Ahsanuddin Amanullah, J)

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