

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7091 of 2014

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Madhukar Lal Karn Son of late Jagdish Narayan Lal Resident o f Village and Post- Raghapur Balat, P.S- Raj Nagar, District- Madhubani, Presently residing in the house of Sri B.K. Lal, New Mithila Colony, P.O- Bataganj (Nasariganj), P.S- Danapur, District- Patna.

.... Petitioner/s

Versus

1. The Bihar State Electricity Board now known as the Bihar State Power (Holding) Company Ltd., through its Chief Managing Director, the Bihar State Power (Holding), Company Pvt. Ltd., Vidyut Bhawan, Bailey Road, Patna.
2. The Chief Managing Director, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. The General Manager (H/R AND Adm.), Bihar State Power (Holding) Comany Ltd., Vidyut Bhawan, Bailey Road, Patna.
4. The Managing Director, North Bihar Power Distribution Company Pvt., Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. The Deputy General Manager, (H/R AND Adm), North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nityanand Mishra, Adv

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

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 09-02-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ
application reads as follows:-

“For issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of mandamus commanding and directing the respondents to pay benefit of ACP-III from 24.12.2011 and Gratuity from 30.6.2013 with statutory interest.

Further for payment of interest upon the leave encashment and pension which has been paid after more than 7/8 months time.

Further to pay litigation cost from the pocket of the authority due to whose latches the retrial benefits like gratuity and ACP-III has not been paid to the petitioner and

due to which petitioner got a heavy loss, whereas the employees of the said company who have been retired on 28th of February, 2014 paid the retrial benefits.

Further for direction to fix the pension after granting ACP-III and pay the difference of amount to the petitioner.”

Learned counsel for the petitioner submits that the petitioner has already retired from service on 30.06.2013 but his admissible retirement benefits including gratuity as also payment of leave encashment and further enhance retrial dues on grant of pay benefit of A.C.P.III, has not been given though there was/is no dispute as with regard to entitlement of the aforesaid claim of the petitioner.

This Court could have gone into such dispute had the respondents filed their counter affidavit. Let it be noted that this writ application was filed on 10.04.2014, but till date no counter affidavit has been filed. Today, when this case has been taken up, learned counsel for the respondents want this case to be adjourned in order to enable him to file the counter affidavit. This Court however will not allow such

prayer of learned counsel for the respondents, inasmuch as a period of 10 months has not been sufficient for them to file the counter affidavit. The respondents infact cannot have the liberty to keep this matter pending before this Court forever.

Admittedly, the petitioner was an employee of Bihar State Electricity Board and became entitled to certain retirement benefit even after he became an employee of Bihar State Power (Holding) Company Ltd., because of the protection of those service conditions. There is also no dispute that the petitioner would be entitled for payment of retirement benefit and in fact the very fact that the petitioner has raised no grievance as with regard to payment of certain retirement benefit alike group insurance, and G.P.F would go to show that it is only non payment of the amount of gratuity and the amount of leave encashment which actually remains to be paid by way of retirement benefit.



The petitioner in fact has come out with a case that he was entitled for grant of financial benefit of ACP-III, but then he has not cited any case showing any junior to him has been granted benefit of such A.C.P. III.

In such a situation when the pleadings by either party in this regard has not been complete and sufficient this Court would deem it expedient in the ends of justice to direct the competent authority to examine the claim of the petitioner and pass a reasoned order with regard to grant of retirement benefits to the petitioner in the event of his being found entitled for grant of A.C.P.-III within a period of three months from the date of receipt/production of a copy of this order along with the representation to be filed by the petitioner.

If the petitioner thereafter is found entitled for certain payment either on account of grant of benefit of A.C.P.III or the amount of gratuity with payable amount of interest or the amount of leave encashment

the same also must be paid to the petitioner in next one month from the date of order passed by the competent authority.

If on the other hand the petitioner is not found entitled for either benefit of ACP-III or gratuity or interest over the amount of leave encashment, the competent authority would be under an obligation to spell out the reasons for non payment and also communicate the same to the petitioner within the aforesaid period of three months.

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

(Mihir Kumar Jha, J)

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