

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1731 of 2014
IN
Civil Writ Jurisdiction Case No. 285 of 2011**

- =====
1. Mahesh Chandra Agrawal, Chief Engineer (Retired) S/o Late Bithal Prasad Agrawal Resident of Flat No. 105, Ashiana's Patel Nagar Apartment, Adarsh Path No. 5, Adarsh Colony, West Patel Nagar, P.S. Shastri Nagar, Patna - 800023

.... Appellant

Versus

1. The Bihar State Electricity Board through its Chairman, Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
3. The Member (Finance), Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
4. The Secretary, Bihar State Electricity Board, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Dr. Manoranjan Prasad Singh, Advocate.

For the Respondent/s : Mr. Vinay Kirti Singh, Additional Standing Counsel
Mr. Vijay Kumar Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

AND

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE I. A. ANSARI)

Date: 19-01-2015

The appellant herein superannuated from the service of respondent No.1, namely, the Bihar State Electricity Board, Patna (hereinafter referred to as 'the Board').

2. At the time of his retirement, the appellant was occupying, on rent, a residential quarter allotted by the Board. In terms of the Board's resolution, dated 09.10.1997,



payment of *gratuity*, *leave encashment*, etc. are to be paid to an employee only after he vacates the accommodation of the residential quarter occupied by him as an employee of the Board. Thus, vacating the residential accommodation, provided by the Board, from a condition of service for an employee to receive his retiral benefits, such as, *gratuity*, *leave encashment*, etc. Though the Board prepared the necessary paper for releasing *gratuity* to the appellant, the same was made payable to the appellant only upon vacating the residential quarter. The appellant did not vacate the quarter till 07.04.2009 and no sooner he vacated the quarter, *gratuity* was paid. While the amount of *G.S.S.* was paid on 02.07.2004, the amount of *leave encashment* was paid on 09.03.2005.

3. As far as payment of *leave encashment* and *G.S.S.* are concerned, the same cannot be said to have been belatedly paid.

4. So far as the payment of *gratuity* is concerned, the same was not paid by the Board till the appellant vacated the quarter in terms of the Board's resolution, dated 09.10.1997, aforementioned.

5. Alleging delayed payment of *gratuity*, *leave encashment* and *G.S.S.* and seeking directions for payment of *interest* thereon, the appellant herein filed a writ petition,

under Article 226 of the Constitution of India, which gave rise to CWJC No. 285 of 2011.

6. By order, dated 25.09.2014, as the learned single Judge of this Court has dismissed the writ petition, the writ petitioner is, in appeal, before us.

7. We have heard Dr. Manoranjan Prasad Singh, learned Counsel for the appellant, and Mr. Vinay Kirti Singh, learned Additional Standing Counsel, appearing on behalf of the Board.

8. While considering the present appeal, it needs to be noted that the legality or validity of the Board's resolution, dated 09.10.1997, aforementioned has not been challenged by the appellant.

9. In the backdrop of the Board's resolution, dated 09.10.1997, aforementioned, the non-payment of the *gratuity*, until the time the appellant vacated the quarter, cannot be said to be illegal, particularly, when the appellant knew even before the date of his superannuation that as long as he continued to occupy the residential quarter allotted to him by the Board, his *gratuity* will remain withheld.

10. Because of what has been discussed and pointed out above, we do not find any infirmity, legal or factual, in the conclusions reached by the learned single Judge.

11. In the result and for the foregoing reasons,
this appeal fails and shall accordingly stand dismissed.

12. No order as to costs.

(I. A. Ansari, J.)

Chakradhari Sharan Singh, J. : I agree.

(Chakradhari Sharan Singh, J.)

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