

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15074 of 2012

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Surendra Prasad Yadav Son Of Late Raj Ballabh Roy Resident Of Village- Maker,
Paschim Tola Chakiya, P.S.- Maker, District- Saran At Present Retired Assistant
Manager District- Siwan

.... Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited through its
Managing Director
2. The Managing Director, Bihar State Food and Civil Supplies Corporation
Limited, Sone Bhawan, Veer Chand Patel Path, Patna
3. The Chief Of Administration, Bihar State Food and Civil Supplies Corporation
Limited, Sone Bhawan, Veer Chand Patel Path, Patna
4. The District Manager, Siwan, Bihar State Food and Civil Supplies Corporation

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Bishnu Kant Dubey, Advocate
For the State : Mr. Prabhat Kuma Verma, AAG-5
For the BSFC : Mr. Ram Shankar Pradhan, Sr. Advocate with
Mr. Amrendra Narayan Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 08-12-2015

Heard learned counsel for the parties.

The dispute remains with regard to the amount of gratuity payable to the petitioner, the interest charged from him for the loss suffered by the respondents and refund of Rs.100000/- which was wrongly adjusted from the amount found payable to the petitioner.

With regard to gratuity, learned counsel for the respondents submits that the Board of Directors of the Corporation are yet to take a formal decision relating to enhancement of the ceiling for payment of gratuity from Rs.3,50,000/- to Rs.10,00,000/-. However, it is not denied that payment of gratuity in the Corporation is under the Payment of Gratuity Act, 1972.

In view of the aforesaid, as the payment of gratuity is as per the statute, giving effect to any provision of the statute cannot be made subject to any decision of any governing body of any Institution covered by the provision of the said Act. Thus, the Court directs that the gratuity be paid to the petitioner as per the upper ceiling of Rs.10,00,000/-.

As far as the charging of interest on the loss suffered by the Corporation, once it was quantified at Rs.2,63,919/- and the petitioner having superannuated on 31.03.2010 and also giving in writing to the Corporation that any amount found recoverable from him on account of loss suffered by the Corporation may be adjusted

from his post retiral dues by letter dated 02.04.2010, the Court holds that charging of interest on the amount is impermissible as on the day the respondents quantified the loss at Rs.2,63,919/-, and an amount much higher than that was payable by the Corporation to the petitioner, in the records, the amount was required to be adjusted and thus there could have been no occasion for charging of any interest.

For the said reason, the respondent Corporation is directed to return the amount of Rs.1,23,870/- which has been adjusted by way of interest by the Corporation.

Similarly, an amount of Rs.100000/- which has been admittedly wrongly adjusted from the dues of the petitioner shall also be returned to him forthwith.

Accordingly, the writ petition stands disposed off with a direction to the respondents to make payments as aforesaid within four weeks from the date of production of a copy of this order before the respondents no. 2 and 3.

Learned counsel for the respondents has informed the Court that the incumbent respondent no. 2 has gone on training and shall be returning only on 24th December, 2015 and the Chief of Finance has been given temporary charge without any financial powers which have to be conferred by the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna

and despite request sent the same has not been done. It is thus submitted that all financial matters, including payment of salary, have been held up since 16th November, 2015. In view of the same, Mr. P. K. Verma, learned Additional Advocate General No. 5, who was present in Court, has been requested to communicate the anxiety of the Court to the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna to issue appropriate orders to ensure that the absence of a regular Managing Director of the Corporation does not affect the working, especially with regard to making payment of salary to the employees or pursuant to any order of the Court.

(Ahsanuddin Amanullah, J)

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