

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.698 of 2015**  
**Arising out of**  
**Civil Writ Jurisdiction Case No. 10928 of 2007**

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1. The Chairman, Bihar State Electricity Board, Patna now known as North Bihar Power Distribution Company Limited through its Managing Director, Vidyut Bhawan Bailey Road, Patna.
  2. The Secretary, General Administrative Department Bihar State Electricity Board Vidyut Bhawan, Patna. Now General Manager (HR & Adm.) North Bihar Power Distribution Company Ltd. Bailey Road, Patna.
  3. The Joint Secretary General Administration Department, Bihar State Electricity Board now DGN (HR & Adm.) North Bihar Power Distribution Company Ltd. (Head Quarter, B.S.E.B.)
  4. The Electrical Executive Engineer, Electric Supply Division, Begusarai.
  5. Electrical Superintending Engineer, Electric Supply Circle Samastipur.
  6. Dy. Director of Accounts (Hd. Qr.) Bihar State Electricity Board, Patna, Bihar.

.... .... Appellants

Versus

1. The State of Bihar through Secretary, Energy Department, Bihar, Patna.
2. The General Manager-Cum-Chief Engineer, Power Supply Area, Hazaribagh (Jharkhand).
3. Electrical Superintending Engineer, Electric Supply Circle, Giridih (Jharkhand).
4. Electrical Executive Engineer, Electric Supply Division, Tenughat.
5. Deputy Director of Accounts Jharkhand State Electricity Board Ranchi.
6. Gaya Devi, Wife of Late Prayag Sahni (retired Junior Electrical Engineer Electric Supply Section Gornia) resident of Village- Manjhaul (Chelti Road) P.S.- Manjhaul , District- Begusarai.

.... .... Respondents

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**Appearance :**

For the Appellants : Mr. Vinay Kirti Singh, Advocate.

For the Respondents :

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)**

**Date: 18-07-2016**

Re.:I.A. No. 2928 of 2015

The application is for condonation of delay of 341 days in  
filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 341 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 2928 of 2015 is allowed and delay of 341 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 698 of 2015

Heard learned counsel for the parties.

2. The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 16<sup>th</sup> of December, 2013 in C.W.J.C. No. 10928 of 2007, whereby Respondent No. 6, the writ applicant (hereinafter referred to as “the applicant”) was ordered to be paid simple interest at the rate of 8 per cent on delayed payment of the retiral dues.

3. Shri Prayag Sahani, husband of the applicant, was working as Junior Electrical Engineer. He attained the age of superannuation on 31<sup>st</sup> of January, 2000. The accumulated Earned Leave of 240 days amounting to Rs. 1,37,440/-; arrears of salary from 01.04.1997 to 31.01.2000 arising out of difference of pay on account of pay revision amounting to approximately Rs. 76,000/-; and the difference of gratuity money arising out of pay revision amounting to

Rs. 1,28,736.50/- were altogether not paid. Therefore, the applicant invoked the writ jurisdiction of this Court.

4. The writ application was allowed and the learned Single Bench directed to pay interest on the alleged delayed payment.

5. As per the appellants, such difference of arrears of pension and the amount of gratuity were paid on 12.04.2008. Therefore, no case is made out for grant of interest in the writ application.

6. It is contended that in fact husband of the applicant was imposed a punishment of stoppage of 5 per cent of pension amount and that punishment was set aside by a Division Bench of this Court on 20<sup>th</sup> of August, 2013. Therefore, for the said reason, the applicant is not entitled to any interest. It is also argued that there is no circular, rule or regulation which confers right of interest to the retired employee in case there is delayed payment of the retiral dues.

7. We have heard learned counsel for the appellants and find no merit in the present Letters Patent Appeal.

8. The husband of the applicant attained the age of superannuation on 31<sup>st</sup> of January, 2000 and the pension on account of difference in the revision of the pay-scale, gratuity and the Leave Encashment was paid in the year 2008 i.e. almost eight years later. It is admitted by the learned counsel for the appellants that the revision



of pay-scale was announced in the year 1997 i.e. three years before the superannuation of the husband of the applicant. Thus, even if after announcement of the revised pay-scale, the pension, gratuity and the Leave Encashment as per revised pay scale is not paid, it makes the appellants liable to compensate the legal heirs of the deceased employee for delay in making the payment.

9. Even if there is no circular, rule or regulation of the Board which confers an obligation to the Board to pay interest, the fact remains that the interest has been awarded by the learned Single Bench for the reason that the applicant was deprived of the user of the amount of gratuity, Leave Encashment and the arrears of pension. The interest is compensation of the deprivation of the retiral benefits. Such amount of interest is thus, fair and reasonable compensation and does not call for any interference in the present Letters Patent Appeal.

10. Learned counsel for the appellants then refers to Circular dated 3<sup>rd</sup> of November, 2006 on the basis of an order passed by the Supreme Court that the pensionary benefits in the case of employee of erstwhile Bihar State Electricity Board who attained the age of superannuation before 1<sup>st</sup> of April, 2001 shall be paid by the successor State Electricity Board from where such employee was drawing pension as on 1<sup>st</sup> of April, 2001.

11. To say the least, the said circular has absolutely no

application to the facts of the present case. The husband of the applicant was drawing pension from the appellant-Board as on 1<sup>st</sup> of April, 2001, which is an admitted situation. If the husband of the applicant was drawing pension on 1<sup>st</sup> of April, 2001 from the appellant-Board, it is the appellant-Board alone who is liable to pay the correct amount of pension including arrears on account of difference in pay-scale, gratuity and Leave Encashment.

12. Thus, we do not find any error in the findings recorded by the learned Single Judge. The Letters Patent Appeal stands dismissed.

**(Hemant Gupta, J)**

P.K.P./Anand  
N.A.F.R.

**(Ahsanuddin Amanullah, J)**

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