

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12871 of 2015

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Awadh Kumar Choudhary, Son of late Shio Pujan Choudhary, Ex sub Divisional Engineer (T), Office of the Chief General Manager, Telecommunication, Bihar Circle, Patna, resident of House No. 477/B, Nehru Nagar, Near Forest Office, P.S Patliputra, P.O. Patliputra, Town & District Patna-800013(Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Telecommunication, Government of India, Department of Telecommunication, 914, Sanchar Bhawan, Ashoka Road, New Delhi. -110001.
2. The Member (Service) Ministry of Telecommunication, Government of India, Department of Telecommunication, 914, Sanchar Bhawan, Ashoka Road, New Delhi. -110001.
3. The Chairman & Managing Director Bharat Sanchar Nigam Limited, Corporate Office Bharat Sanchar Bhawan, Janpath New Delhi.
4. The Chief General Manager, Telecommunication, Bihar Circle, Bharat Sanchar Nigam Limited Patna
5. The Controller of Communication, Office of the CCA, Bihar Telecomm. Circle Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Munna Pd Dixit (M.P. Dixit)
Mr. S. K. Dixit, Advocate
Mr. S. K. Choubey, Advocate
Mr. Shailendra Kumar, Advocate
Mr. Sunil Kumar, Advocate

For the Respondents : Mr. S.D Sanjay (Addl. Solicitor General)
Dr. Punam Kumari Singh, C.G.C.

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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: 28-06-2016

The order dated 19th of May, 2015 passed by the
Central Administrative Tribunal, Patna Bench, Patna (hereinafter
referred to as 'the Tribunal') in O.A. No.184 of 2013 is the subject

matter of challenge in the present writ petition.

2. The petitioner invoked the jurisdiction of the Tribunal under Section 19 of the Administrative Tribunal Act, 1985 claiming retiral dues including the amount of gratuity withheld on account of pending criminal trial.

3. The petitioner attained the age of superannuation on 31st of July, 2012. He is an accused in a criminal case pending vide Special Case No.34 of 2004, *inter alia*, causing loss to the Department to the tune of Rs.2,64,616/-. It is the case of the petitioner that as a condition of bail, he has deposited the said loss amount. After attaining the age of superannuation, the petitioner was sanctioned provisional pension, but the amount of gratuity was withheld. It is the said withdrawal of gratuity which was claimed by the petitioner through an Original Application which claim has been declined by the Tribunal.

4. The petitioner has pointed out that he is an employee of Bharat Sanchar Nigam Limited (hereinafter referred to as 'BSNL'), but pension to its employees is paid by the Department of Telecommunication. Therefore, it is the CCS (Pension) Rules, 1972 which are extended to the employees of BSNL.

5. Rule 9 of the Central Civil Services (Pension) Rules, 1972 empowers the President to withhold pension or





gratuity, or both, either in full or in part, if any departmental or judicial proceedings are pending. It is in view of such provision; the amount of gratuity has been withheld by the Central Government. Since criminal case is pending, therefore, withholding of amount of gratuity falls within the scope of Rule 9 of the Rules.

6. The deposit of loss amount before the Court was a condition of grant of bail. Such condition of grant of bail will not debar the Department from withholding the amount of gratuity as such amount deposited by the petitioner as a condition of grant of bail is not with the Department.

7. In view thereof, we do not find any merit in the present petition. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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