IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1387 of 2015

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Union of India through the Chief Commissioner, Customs and Central Excise, Patna, Pin-800001

.... Petitioner

Versus

Ram Suresh Ram son of Late Ram Chandra Ram Resident of village Lakshmanpur, P.O. Daulatpur, Police Station- Ara Muffasil in the district of Bhojpur, at present House No. 4h/7, Bahadurpur Housing Colony, Bhutnath Road, Bahadurpur, District- Patna.

.... Respondent

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar (ASG)
For the respondent	:	Mr. Dinu Kumar, Advocate
		Mr. Rajesh Kumar Singh, Advocate
		Mr. Arvind Kumar Sharma, Advocate
		Mr. Santosh Kumar, Advocate
		Mr. Manoj Kumar, Advocate
		Mr. Ritu Raj, Advocate
		Mrs. Ritika Rani, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 31-03-2016

Union of India has filed this writ petition being aggrieved by the part of the decision of the Central Administrative Tribunal, Patna Bench, Patna dated 13.03.2014, passed in O.A. No. 695 of 2012 by which the Union of India has been directed to refund the amount of gratuity and leave encashment with interest of 8% from the due date till the date it is paid.

Heard Sri Sanjay Kumar, learned Assistant

Solicitor General for the petitioner and Sri Dinu Kumar for the contesting respondent, who was the applicant before the Tribunal, and with their consent we are disposing of this writ petition at this stage itself.

Having heard the parties, in our view, the Union of India has made out a case for interference. So far as the gratuity is concerned, Rule 69(c) of the CCS (Pension) Rules clearly authorizes withholding of gratuity during pendency of departmental proceedings or judicial proceedings, even then the Tribunal passed the order to refund the gratuity. Once the statute authorizes withholding of gratuity pending such proceedings then it was not open to the Tribunal to direct payment of interest on the amount payable as gratuity to the respondent. We, thus, have no hesitation in setting aside that part of the order by which the Tribunal has ordered for payment of interest on the delayed payment of gratuity concerned.

However, learned counsel points out that even leave encashment, which was due to the petitioner on 31.01.2003, was paid only after the order of the disciplinary authority in the year 2012. It was, thus, withheld without any authority for almost a decade. In such a situation, the Tribunal was correct in awarding interest on the component of leave encashment. We would not interfere with that part of the order.

With the aforesaid observation, the writ petition is partly allowed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh/AFR

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