

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22448 of 2014

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Kapildeo Prasad Son of Late Jago Prasad Resident of Village - Thali Bazar P.S.-
Govindpur, District - Nawada

.... Petitioner

Versus

1. The Bihar State Ware Housing Corporation through its Managing Director, Mauryalok Complex, Patna
2. Managing Director, Bihar State Ware Housing Corporation, Mauryalok Complex, Patna
3. The Secretary, Bihar State Ware Housing Corporation, Mauryalok Complex, Patna
4. The Divisional Manager, Bihar State Ware Housing Corporation, Latehar, Jharkhand
5. The Accounts Officer, Bihar State Ware Housing Corporation, Mauryalok Complex, Patna
6. The Superintendent, Bihar State Ware Housing Corporation, Latehar Jharkhand

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 13-05-2016

Heard Mr. Krishna Kant Singh, for the petitioner.

No one appears on behalf of the respondent(s).

3. The petitioner seeks a direction upon the Bihar State Ware Housing Corporation to pay him the retrial dues such as the benefit of the 6th pay revision by revising the sanction order to grant second Time Bound promotion and recalculate dues including gratuity and other outstanding dues.

4. A counter affidavit is filed on behalf of respondent nos. 1 to 6. No rejoinder thereto is filed.

5. It is stated that while in service an FIR vide Chakia P.S. Case



No. 140/86 was filed against the petitioner for loss of 50mt fertilizer quantified at Rs. 1,78,750/- for which a departmental proceeding was also initiated against the petitioner. This factum has been suppressed by the petitioner that in the departmental proceeding, upon notice, he has already appeared. The Inquiry Officer submitted a report in 1990, stating that the criminal case against the petitioner is pending in the court of law. In such circumstances, no final order was passed in the departmental proceeding awaiting the conclusion of the criminal proceeding/trial pending in court.

6. In so far as the payment of benefits of 6th pay revision is concerned, it is stated that no employee of the Ware Housing Corporation has been granted the said benefits, as the matter is pending approval by the Government in the Department of Cooperative. Until the approval is granted, the petitioner has no right to claim.

7. Coming to the claim of the petitioner for grant of Time Bound promotion, this Court would observe that the same would not *stricto sensu* constitute a post retrial benefit claim. There may be diverse reasons for not granting the same. The petitioner shall be at liberty to agitate the matter before the concerned respondents in accordance with law.

8. In so far as the payment of part of the gratuity amount is concerned, the same shall be paid/authorized in favour of the

petitioner once the approval/sanction for grant of benefits of 6th pay revision to the employees of the Ware Housing Corporation is granted. The payment shall also await till the outcome of the departmental proceeding or the criminal trial pending against the petitioner. The Court is not aware about the status of the criminal trial. The parties through affidavits have given an impression that the records of trial arising out of Chakia P.S. Case No. 140/86 are not traceable. According to the respondent(s), the same is pending since 1986 or so.

9. In the circumstances, the Court shall give liberty to the petitioner to approach the respondent(s) and convince the Authority to conclude the departmental proceeding in the light of the observations made in the file by the Managing Director of the Corporation and or to conclude the proceeding without waiting for the outcome of the trial. If he does so, the Court expects the concerned respondent shall consider the said prayer of the petitioner and take appropriate decision in accordance with law as quickly as possible preferably within six (06) weeks' of such filing of the representation/application along with a copy of the present order.

The writ application stands disposed of.

(Kishore Kumar Mandal, J)

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