

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.814 of 2017
IN
Civil Writ Jurisdiction Case No. 20568 of 2016**

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Bindu Lal Arya son of late Nand Lal Arya resident of Panchwati Colony, P.O.
Guljarbagh, P.S. Alamganj, District - Patna.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Department of Energy, Government of Bihar, Patna.
2. The South Bihar Power Distribution Company Ltd. through the Chairman-cum-Managing Director, South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. The Chairman-cum-Managing Director, South Bihar Power Distribution Company Ltd, Vidyut Bhawan, Bailey Road, Patna.
4. The Managing Director, Bihar State Power Transmission Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. The General Manager, HRD/Adm. Bihar State Power Transmission Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
6. The Dy. General Manager, HRD/Adm., Bihar State Power Transmission Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
7. The Deputy General Manager (Finance and Accounts), South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
8. The Enquiry Officer-cum-Superintending Engineer, Electric Transmission, Bihar State Power Transmission Company Ltd., Vidyut Bhawan, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pankaj Kumar Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and



HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 17-10-2017

Seeking exception to an order dated 07.03.2014 passed by the learned Writ Court in CWJC No. 20568 of 2016 this appeal under Clause 10 of the Letters Patent has been filed.

Petitioner was working in the South Bihar Power Distribution Company Limited ('the Company' for brevity) and was prosecution for various charges under Sections 420, 406, 409, 467, 468, 120B and 134 of the Indian Penal Code for causing loss to the Company and committed certain acts of commission and omission. The criminal prosecution is still pending. But as the acts complained of amounted to misconduct also a departmental proceedings was held against the petitioner, charge-sheet was issued, enquiry officer was appointed and in the departmental enquiry it was found that the petitioner has committed misconduct. He has defalcated funds of the Company and, therefore, he is liable to be punished. Second show cause was issued and punishment of recovery of Rs.42,83,693.48p. with interest was ordered and his pension was also reduced permanently by 50%. When the amount of loss caused to the Company amounting to Rs.42,83,693.48p. was being recovered from the gratuity payable to the petitioner the writ petition was filed



and the ground canvassed was that amounts cannot be recovered from gratuity. The learned Writ Court found that the amount of gratuity cannot be paid to the petitioner and as the order of recovery is properly passed no interference can be made.

Before us also the same argument was advanced to say that recovery from the gratuity is not permissible.

Having heard learned counsel for the parties we find that pension is payable to the appellant in accordance with the Bihar Pension Rules, 1950 and Rule-27 in Chapter II of the Rules defines 'pension' to include gratuity. That apart, the Pension Rules also provides for recovery from pension and reduction of pension as a measure of punishment by departmental enquiry. Once definition of pension includes gratuity, and, when, the Rules statutory in nature permits recovery from pension, we see no reason to make any indulgence into the matter. The contention of the appellant that no recovery can be made from the gratuity is wholly misconceived, as gratuity is nothing but part of pension of the pensionary benefits which is payable after retirement. And, if gratuity is nothing but pension as defined under Rule 27 and the Rules permits recovery from pension or reduction in pension we are unable to accept the contention of the appellant.

The learned Writ Court in dismissing the writ petition



has not committed any error. The appeal is accordingly dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

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