

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.671 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 15074 of 2012

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Surendra Prasad Yadav, Son of Late Raj Ballabh Roy, Resident of Village- Maker, Paschim Tola Chakia, P.S.- Maker, District- Saran at present retired Assistant Manager, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary
2. Mr. Arbind Kumar Singh, the Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Veer Chand Patel Path, Patna.
3. Mr. Kumar Sanjay, The Chief of Administration, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Veer Chand Patel Path, Patna.
4. Mr. Nirmal Kumar Roy, the District Manager, Siwan, Bihar State Food and Civil Supplies Corporation Limited.

.... Opp. Party/s

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Appearance :

For the Petitioner	:	Mr. Bishnu Kant Dubey, Advocate
For the BSFC	:	Mr. Anjani Kumar, Sr. Advocate with Mr. Shailendra Kumar Singh, Advocate
For the State	:	Mr. P. K. Verma, AAG 5

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 29-03-2017

Heard learned counsel for the petitioner, State and the opposite parties no. 2 to 4.

2. Pursuant to order dated 01.03.2017, the opposite parties no. 2 to 4 are present in Court.

3. The petitioner had filed the present contempt application alleging non-compliance of the judgment dated 08.12.2015 passed in



C.W.J.C. No. 15074 of 2012.

4. The basic issue relates to payment of enhanced gratuity as well as return of the amount which was adjusted by way of interest.

5. The position today is that as per the opposite parties no. 2 to 4, the amount of interest which was adjusted has been returned and also gratuity has been paid to the tune of Rs. 4,14,391/-, inclusive of Rs. 3,50,000/- which had already been paid earlier.

6. Learned counsel for the petitioner submitted that the Court had indicated that the gratuity would be paid taking into consideration the upper ceiling of Rs. 10 Lakhs but in the present case, much less amount has been paid wrongly since the calculation has been made on the basis of the pay scale as per the 5th Pay Revision and not the 6th Pay Revision which had come into effect on 01.01.2006 and for which payment was to be paid with effect from 01.04.2007.

7. Learned counsel for the opposite parties no. 2 to 4 submitted that the pursuant to the order of the Court the payments have been made, but because the petitioner had superannuated prior to 01.01.2012, the date from which the 6th Pay Revision was implemented by them, the calculation for gratuity of the petitioner has also been made as per the 5th Pay Revision, as he had superannuated on 31.03.2010.



8. Having considered the rival contentions, in terms of the judgment of the Court dated 08.12.2015, the petitioner was held entitled to payment of gratuity under the Payment of Gratuity Act, 1972 with the upper limit of Rs. 10 Lakhs. The same would not depend either on any resolution of the State Government or the Corporation itself. Moreover, as per C.W.J.C. No. 15074 of 2012 itself in which judgment dated 08.12.2015 was passed, the prayer was for direction to make payment of post retrial benefits, including gratuity, in terms of the 5th Pay Revision. Thus, for the purposes of considering the present application, the Court cannot go behind and decide on merits as to whether the contentions of learned counsel for the petitioner that he is entitled to the benefit of the 6th Pay Revision is correct or of the opposite parties no. 2 to 4 that the same was not made applicable on the date the petitioner superannuated. Suffice to say, that the judgment dated 08.12.2015, in the considered opinion of the Court, has been compiled with.

Accordingly, the application stands disposed off.

Personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J)

Anjani/-

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