

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13828 of 2016

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Lok Nath Prasad Son of Late Bihari Mahto Resident of village - Sohdi, P.S. +
P.O. Soh Sarai, District - Nalanda

.... Petitioner

Versus

1. The Bihar State Power (Holding) Company Ltd., through Chief Managing Director, Vidyut Bhawan, Bailey Road, Patna
2. The Managing Director, South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna
3. The Financial Controller, South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna
4. The Superintending Engineer, Transmission, Bihar Shariff, Nalanda
5. The Chairman cum Managing Director, Bihar State Power (Holding) Company Limited, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kamla Prasad Roy, Adv.
Mr. Satya Ranjan Sinha, Adv.
For the Respondent/s : Mr. Manoj Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-04-2018

Heard Mr. Kamla Prasad Roy, learned counsel for the petitioner and Mr. Manoj Kumar, AC to Ms. Nivedita Nirvikar, appearing for the respondents.

The petitioner prays for issuance of a writ in the nature of certiorari for quashing the order bearing Memo No. 855 dated 21.5.2014 passed by the Managing Director, South Bihar Power Distribution Company Limited, a copy of which is impugned at Annexure 3 to the writ petition, whereby the pension and gratuity of the petitioner has been forfeited in its entirety together with stay on payment of unutilized leave.



Apparently the order seems to have been passed in exercise of powers vested under Rule 43(b) of the Bihar Pension Rules but the counter affidavit is silent on the source of power. On query made from Mr. Vinay Kirti Singh, learned Senior Counsel who is present in Court, he informs that by a resolution of the Board, the provisions of the Bihar Pension Rules have been adopted.

A supplementary counter affidavit is filed today on behalf of the respondents enclosing Annexure 'D' a notification bearing Memo No. 469 dated 5.4.2014 whereby the Board has resolved to appoint the Chairman of the Power Holding Company as the appellate authority to hear appeals arising from the orders passed by the Managing Director of the concerned Company. According to the learned counsel for the respondents, since the order in the present case is passed by the Managing Director, South Bihar Power Distribution Company Limited, the appeal would lie before the Chairman of the Power Holding Company.

Having heard learned counsel for the parties and considering that an appellate forum is available to the petitioner to question the order impugned herein, while granting permission to the learned counsel for the petitioner to add Chairman, Bihar State Power (Holding) Company Limited as a party respondent during the course of the day, this Court would grant liberty to the petitioner to exhaust



the appellate remedy so available to him and it goes without saying that any such appeal preferred by the petitioner within four weeks from today together with a copy of this order and a petition for condonation of delay, would be considered by the appellate authority on its own merits and be disposed of the same in accordance with law with opportunity of hearing to the petitioner and since it arises out of an order forfeiting post retiral dues of the petitioner, the appellate authority would dispose of the same expeditiously and preferably within a period of three months of its filing.

This disposes of the writ petition.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2018
Transmission Date	NA

