

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14861 of 2011

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Nand Kishore Prasad Singh Son of Late Shital Singh, Resident of Village-Bhandous, P.S. Sheikhpur, District-Sheikhpura.

.... Petitioner/s

Versus

1. The Bihar State Food & Civil Supplies Corporation Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna.
2. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna.
3. The Chief of Claim, Bihar State Food & Civil Supplies Corporation Ltd., Sone Bhawan, Bir Chand Patel Marg, Patna.
4. The Employees Provident Fund Commission, Bihar, Patna.
5. The Employees Provident Fund Commission, Jharkhand, Ranchi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamala Kant Tiwary, Advocate
For the E.P.F.O. : Mr. Prashant Sinha, Advocate
For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-04-2018

Heard learned counsel for the petitioner; Bihar State Food and Civil Supplies Corporation Limited (hereinafter referred to as the 'Corporation') and Employees Provident Fund Organization.

2. The petitioner has moved the Court for the following reliefs:

“That this is an application for issuance of appropriate writ/writs and direction/directions for the payment of retrial benefits including Gratuity, encashment of leave salary, Employees Provident Fund, pension, Group Insurance and arrears of pay along with interest and compensation for delay in the aforesaid payment and any other reliefs for which the petitioner is found entitled to.”



3. From time to time, in terms of the order of the Court, counter affidavits and rejoinders have been filed by the parties. Finally, the result is that the stand of the Corporation is that during his service period, the petitioner had taken various advances and the same has been reconciled and, thus, as per the policy of the Corporation, the amount is due and outstanding against him.

4. Learned counsel for the petitioner submitted that such dues cannot be shown against the petitioner for during his service period, he was never noticed or given show cause or even asked to make good any loss which has been suffered by the Corporation. He has also relied upon various decisions of the Court i.e., order dated 04.10.2002 in L.P.A. No. 381 of 2002 by the Jharkhand High Court; order dated 29.08.2008 passed in C.W.J.C. No. 12905 of 2006 by a co-ordinate Bench of this Court; order dated 24.11.2008 passed in L.P.A. No. 851 of 2008 of this Court; order dated 21.05.2010 passed in W.P. (S) No. 2478 of 2005 and analogous case by Jharkhand High Court; order dated 22.11.2010 passed in L.P.A. No. 283 of 2010 by the Jharkhand High Court; order dated 15.12.2004 passed in W.P. (S) No. 2180 of 2003 passed by the Jharkhand High Court; order dated 03.01.2006 passed in L.P.A. No. 38 of 2005 by the Jharkhand High Court; order dated 22.08.2016 passed by a co-ordinate Bench of this Court in C.W.J.C.



No. 341 of 2012 and order dated 24.11.2009 passed by the Hon'ble Supreme Court in Civil Appeal No. 3504 of 2007, for such proposition. It was, thus, contended that the act of the Corporation of quantifying the loss and then charging 18% interest is not permissible. He has further relied upon a judgment of the Hon'ble Supreme Court dated 27.01.2014 in Special Leave to Appeal (Civil) No. 16832 of 2013, relating to the recovery not permissible after charging interest over the same.

5. Learned counsel for the Corporation submitted that the payment of retiral dues to the petitioner is withheld basically on the ground that during his service tenure, he had taken advances of huge amounts which have not been reconciled. It was submitted that the so called bills which he has submitted themselves indicate that they are not accompanied by any vouchers in support of the amounts mentioned by the petitioner himself and are only by way of forwarding. It was further submitted that the advances which were taken by the petitioner and his contention that the same have been reconciled, at least from the pleadings brought on record, indicate an attempt by the petitioner to mislead the Court inasmuch as the purchase bills of food materials has been shown as the amount he has spent from those advances. Learned counsel further submitted that in the cases which have been referred to and relied upon by learned



counsel for the petitioner, neither show cause was issued nor any opportunity to satisfy the authorities had been granted, whereas in the present case, show cause has been given and reply also submitted by the petitioner. It was submitted that the punishment order has never been challenged till date.

6. Having considered the rival contentions, the Court does not find any ground to interfere in the matter. The writ petition has been filed only for grant of retiral benefits. There is no challenge to any adverse order which may be against the petitioner or even the subsequent order which has been passed and is on record. Once a substantial order is staring in the face of the petitioner, unless the same is interfered with, there cannot be any consequential relief granted, as whatever claim the petitioner may have on the Corporation shall obviously have to first satisfy the claim which the Corporation has on the petitioner. The Court further finds substance in the stand of learned counsel for the Corporation that all the decisions of the various Courts relied upon and referred to by learned counsel for the petitioner, are in the background of challenge, either to the disciplinary proceeding initiated against the person or the order passed on such proceeding, on merits. In the present case, there being no challenge to any order prior in time or subsequent thereto, the Court would not go into such aspect as the same is beyond the



scope of the present writ application.

7. Thus, taking an overall view, the Court finds no ground to pass any positive order and accordingly, the writ petition stands disposed off. The petitioner shall be at liberty to assail any order, which may be adverse to his interest, in accordance with law, before the appropriate forum.

(Ahsanuddin Amanullah, J.)

P. Kumar

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