

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5393 of 2011**

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Chandra Mohan Jha, S/O Late Sri Kedarnath Jha, Resident & P.S. - Budha Colony,  
Town & District- Patna.

.... .... Petitioner

Versus

1. The Union of India through the Secretary Ministry of Power, Shram Shakti Bhawan, Rafi Marg, New Delhi.
2. Secretary Department of Energy, Shram Shakti Bhawan, Rafi Marg, New Delhi.
3. Under Secretary, Ministry of Energy, Shram Shakti Bhawan, Rafi Marg, New Delhi.
4. Chairman, Bihar State Electricity Board, Bihar, Patna.
5. Chairman, Jharkhand State Electricity Board, Jharkhand., Ranchi.
6. Registrar, Central Administration Tribunal, Patna Bench, Patna.

.... .... Respondents

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**Appearance:**

For the Petitioner/s : Mr. Ravindra Kumar Shukla and  
Mr. Gyanendra Kumar Shukla, Advocates.

For the Respondents-UoI: Mr. Arvind Kumar Tiwary, C.G.C.

For the Bihar State Power Mr. Anand Kumar Ojha, S.C.  
(Holding) Company

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

**Date: 29-01-2018**

Heard learned counsel representing the petitioner, learned  
counsel representing the Union of India as also learned counsel  
representing the Bihar State Power Holding Company.

2. The petitioner is a retired IAS officer, who got an  
engagement by making himself available on full-time-basis with the  
Central Government to serve as the Chairman of the State Advisory  
Committee to make recommendations to the Central Government for  
allocation of posts and staff of the erstwhile Bihar State Electricity



Board (now, Bihar State Power Holding Company) considering representations from their employees. His grievance is that while assigning him the said job it was on a full-time-basis on a fixed consolidated remuneration of Rs. 13,000/- per month and initially an order dated 06.01.2004, as contained in Annexure-1/1 & Annexure-2 to the present Writ Application, was issued; later on in partial modification of the said order dated 06.01.2004, the Ministry of Power, Govt. of India came out with an order dated 14.05.2004, as contained in Annexure-3 to the Writ Application. It is his case that vide Annexure-3, once again, the consolidated fee payable to him was fixed at Rs. 13,000/- per month in addition to his entitlement to draw his pension and reliefs thereon but in complete disregard to the earlier order dated 06.01.2004 followed by the order dated 14.05.2004, the Ministry of Power, Govt. of India issued an order dated 23.12.2004 (Annexure-4) by which a fresh decision has been taken to amend the terms and conditions of the engagement of the petitioner. This time the petitioner has been allowed only a one-time-lumpsum-honorarium of Rs. 60,000/-. This Annexure-4, i.e., the order dated 23.12.2004 fixing a lumpsum honorarium of Rs. 60,000/- has been questioned by the petitioner by filing the present Writ Application.

3. Learned counsel representing the petitioner submits that the fixation of lumpsum honorarium of Rs. 60,000/- vide order dated



23.12.2004 is a unilateral act of the Govt. of India and the order having been passed by reducing the remuneration of the petitioner without hearing him in any way is wholly illegal, arbitrary and bad in law. Learned counsel further submits that in this regard the petitioner represented vide letter no. 99 dated 20.08.2009 to the then Hon'ble Minister, Ministry of Power, Govt. of India but no decision whatsoever was taken on his representation.

4. Learned counsel further submits that earlier the petitioner had moved the Central Administrative Tribunal, Patna Bench, Patna vide O.A. No. 283 of 2010 but the said O.A. was not entertained because the complaint made before the Tribunal was with respect to an engagement which was in the nature of post-retiral engagement. He submits that when the matter travelled to this Court in CWJC No. 14077 of 2010, a Division Bench of this Court vide order dated 07.01.2011 upheld the order of the learned Tribunal on the issue of lack of jurisdiction and dismissed the Writ Application with liberty to the petitioner to raise his grievance, if so advised, through a Writ Petition before this Court which, according to the said order, would be considered on its own merit.

5. It is in above said background of the facts and circumstances that the present Writ Application has come up for consideration before this Court.



6. On the other hand, learned counsel representing the Union of India has drawn the attention of this Court towards the stand taken in the Counter Affidavit filed on behalf of the respondent no. 1. The statements made in Paragraphs 4, 5, 6 & 7 of the Counter Affidavit on behalf of the respondent no. 1 would go to show that the petitioner was, at the relevant time, also heading a Committee constituted by the Department of Personnel & Training (DoPT) for decision of posts of the employees of the State of Bihar and was getting a fee from the Ministry of Home Affairs for the job at that time.

7. At the time of his present engagement by the Ministry of Power, Govt. of India, no objection of DoPT was not obtained in respect of the petitioner for taking the new assignment including the honorarium. The petitioner informed vide his letter dated 15.09.2008 to the Director, Ministry of Power that bifurcation of State Cadre of Bihar and Jharkhand had since been completed on 30.06.2008 he, therefore, requested for revising the salary from the present one-time-remuneration of Rs. 60,000/- on completion of job to Rs. 40,000/- per month, on the ground that his earlier salary had been fixed by DoPT as Rs. 13,000/- per month since he retired in the fixed scale at Rs. 26,000/-. Since the scale of Rs. 26,000/- on that date had been revised to Rs. 80,000/- the petitioner had requested for extension of period



and to fix his salary at Rs. 40,000/- for the said assignment w.e.f. July, 2008. A copy of the letter dated 15.09.2008 written by this petitioner has been brought on record as Annexure-‘B’ to the Counter Affidavit filed on behalf of the respondent no. 1.

8. A perusal of the letter as contained in Annexure-‘B’ to the Counter Affidavit shows that the petitioner was fully aware of the reasons as to why he cannot draw salary from two places and the reason behind issuance of the order dated 23.12.2004 offering him an honorarium instead of salary.

9. It has been categorically stated in the Counter Affidavit that the issue raised by the petitioner was examined in consultation with the Department of Personnel & Training and it was conveyed to the petitioner vide letter dated 23.03.2009 that the request of revising the mutually agreed one-time-honorarium of Rs. 60,000/- for assignment of work of SAC-EB has not been acceded by the Ministry of Power; a copy of the said letter dated 23.03.2009 has been annexed as Annexure-‘C’ to the Counter Affidavit filed on behalf of the respondent no. 1.

10. On the strength of what has been submitted in the Counter Affidavit learned counsel representing the Union of India submits that the tone and tenor in which the Writ Application has been filed would show that the petitioner had been initially engaged



vide Annexure-1/1 which was modified by Annexure-3 only for a period of six months from the date of his appointment. The petitioner got a fresh term of engagement vide letter dated 23.12.2004 which is provided for a lumpsum honorarium of Rs. 60,000/- as mutually agreed. The petitioner did not raise any objection or challenge this order dated 23.12.2004 (Annexure-4) for a considerable period of time. He accepted the same and continued to work, the objection, if any was raised by the petitioner only vide his letter as contained in Annexure-‘B’ to the Counter Affidavit at a much belated stage after about four years. The manner in which Annexure-‘B’ has been written clearly demonstrates that the petitioner raised an issue of revision w.e.f. July, 2008 and this request of the petitioner was specifically rejected vide Annexure-‘C’ to the Counter Affidavit.

11. It is further submitted that the communication as contained in Annexure-‘C’ to the Counter Affidavit has not been challenged by the petitioner and what has been stated to be mutually agreed in Annexure-‘C’ has also not been specifically controverted but the learned counsel has attempted to show that this is not a correct fact.

12. The Bihar State Power Holding Company is not a contesting respondent in this case, however, learned counsel representing the Bihar State Power Holding Company has assisted in



course of hearing.

13. I have heard learned counsel for the parties and perused the records. It is evident from Annexure-1/1 that initially the petitioner was engaged on a consolidated fee of Rs. 13,000/- per month in addition to his entitlement to draw his pension and reliefs thereon. The first order dated 06.01.2004 was amended vide order dated 14.05.2004 as contained in Annexure-3. Clause 3 of this order specifically states that the petitioner shall hold the said appointment for a period of six months from the forenoon of 06.01.2004 or until further orders, whichever is earlier. Thereafter, vide order dated 23.12.2004 (Annexure-4) a fresh term of engagement / appointment was issued in which the petitioner was provided certain facilities in terms of accommodation and supporting staff for the working of the Committee but under clause (v) of the order his remuneration was fixed as one-time-lumpsum-honorarium of Rs. 60,000/-. It is this clause (v) which has been challenged in the present case.

14. From the submissions made at the Bar and upon perusal of the records, I find that after the order as contained in Annexure-4, the first document by which the petitioner represented to the then Hon'ble Minister vide letter no. 99 dated 20.08.2009 but from the Counter Affidavit of respondent no. 1 it appears that vide Annexure-'B' the petitioner had represented on 15.09.2008. This



letter dated 15.09.2008 is addressed to the Director, Ministry of Energy, Govt. of India in which he has specifically stated that the terms of the present Committee is going to end on 30.09.2008 and it requires further extension for another six months, thereafter, he has attempted to raise a grievance as regards his remuneration. It appears from a reading of this letter that he admits in his own letter that the order dated 14.05.2004 offering him the consolidated fee of Rs. 13,000/- per month (Annexure-3) was not acceptable to him because he was drawing Rs. 13,000/- per month under the order of the Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training, Govt. of India. Thus, he was acting as the Chairman, State Advisory Committee for bifurcation of the State Cadres of Bihar and Jharkhand. He further admits in his own letter that he pointed out to the Ministry of Power that he cannot draw salary from two places and, therefore, the Ministry of Power issued a revised order dated 23.12.2004 offering him a remuneration instead of salary. In fact, in the letter dated 15.09.2008 he has not at all raised any grievance against the order dated 23.12.2004, therefore, what is stated in the Counter Affidavit of the Union that it was a mutually agreed amount is true and correct.

15. The petitioner is not acting bona fide in now claiming that Annexure-4, i.e., order dated 23.12.2004 reducing his fee of Rs.



13,000/- per month to a lumpsum one time Rs. 60,000/- is illegal or arbitrary. In his pursuit to gain some money the petitioner has taken a stand in the Writ Application which is falsified from his own statement made at the earliest opportunity vide Annexure ‘B’ dated 15.09.2008, i.e. after a period of almost four years from the date of Annexure-‘4’. In fact, a perusal of this letter would show that he claimed a salary based on his revised pay w.e.f. July, 2008. As stated above, the request of the petitioner was rejected vide Annexure-‘C’, i.e., the letter dated 23.02.2009 which he has not challenged.

16. In the facts and circumstances stated here-in-above I am of the considered opinion that the prayer made in the Writ Application to quash the letter dated 23.12.2004 (Annexure-4) is wholly misconceived and is not a bona fide prayer.

17. In the facts and circumstances, the Writ Application being devoid of merit is dismissed.

**(Rajeev Ranjan Prasad, J)**

Dilip, AR

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