

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1543 of 2014
IN
Civil Writ Jurisdiction Case No. 22164 of 2013**

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Smt. Saroj Devi widow of late Birendra Kumar Singh resident of Village Dudhaila
Gachhi, P.S.- Sonapur and District Saran.

.... Appellant/s

Versus

1. Bihar State Co - Operative Marketing Union Ltd., through its Chairman,
Biscomaun Bhawan, Patna
2. Managing Director, Bihar State Co - Operative Marketing Union Ltd.,
Biscomaun Bhawan, Patna
3. Chief of Accounts, Bihar State Co - Operative Marketing Union Ltd.,
Biscomaun Bhawan, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Abu Haidar, Advocate
For the Respondent/s : Mr. Y.V. Giri, (Sr. Advocate)
Mr. Ashish Giri, Advocate
Mr. Sumit Kumar Jha, Advocate
Mr. Rajat Kumar Tiwary, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 05-07-2018

Challenge in the present Letters Patent Appeal is to the
judgment dated 19.09.2014 passed by the learned Writ Court in
C.W.J.C. No. 22164 of 2013. By the impugned judgment, the learned
Writ Court has disposed of the writ application with an observation
that the direction issued by the Division Bench shall govern the issue.

Learned senior counsel representing the appellant
submits that the respondents-Biscomaun are discriminating in the



matter of payments to the employees and they are adopting pick and choose method. The present appellant had superannuated from service prior to some of the retired employees who have been given the benefit of payment of the retiral dues out of turn.

In view of the submissions advanced on behalf of the appellant, we had called for an affidavit from the respondents vide order dated 18.12.2017. The respondents have filed an affidavit sworn by the Officer In-charge, Law, Biscomaun, Patna. Regarding the breaking of the seniority and the chronological order it is stated in the affidavit that all such payments have been made only when the Hon'ble Court ordered specifically for payment and no such payment has been made *Suo-Moto*. The affidavit also provides that the earlier in M.J.C. No. 3691 of 2013 this allegation was made but after considering the stand of the Biscomaun this Court took a view that there was no violation of the order dated 22.04.2011 under contempt and the contempt application was dismissed.

It is now prima-facie clear to us that the authorities of the Biscomaun are not violating the seniority in the matter of payment of retiral dues to the retired employees but they have made certain payments breaking the seniority in order to comply with the various orders passed by the different Benches of this Court from time to time.



In these circumstances, if the learned Writ Court has observed that the direction issued by the Division Bench will govern the issue, we do not find any error in the impugned order. The learned Single Judge has taken note of the fact that some of the payments have already been made and had been received by the petitioner (now deceased) himself in the year 2012. We make it clear that the respondent authorities shall follow the seniority in terms of the Division Bench judgment and shall ensure payment to the appellant in accordance with the same.

The Letters Patent Appeal is disposed of in the aforementioned terms.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-
Ved/-

AFR/NAFR	NAFR
CAV DATE	NA
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