

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8627 of 2014

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Radhey Krishna Rai Son o Late Sukho Rai Resident of Village- Bhusawala,
Danapur Chak, Police Station- Phulwarisharif, District- Patna.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority through its Managing Director, Udhog Bhawan, East Gandhi Maidan, Patna- 4
 2. The Managing Director, Bihar Industrial Area Development Authority, Udhog Bhawan, East Gandhi Maidan, Patna- 4
 3. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Bhagalpur.
 4. The Executive Director, Bihar Industrial Area Development Authority Regional Office Bhagalpur.
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Singh, Advocate

For the Respondent/s : Mr. Lalit Kishore, Sr. Advocate

Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-08-2018

Heard learned counsel for the petitioner and the respondent State.

2. The writ petition has been filed by the petitioner claiming salary for the period 12.03.2008 to 28.02.2009.

3. The short facts are that on 12.03.2008 the petitioner along with various other employees of the BIADA had proceeded on strike. The petitioner had thereafter, been compulsorily retired. He challenged the order of compulsorily retirement by filing C.W.J.C. No. 11737 of 2008. The same was disposed off in a batch of cases along with CWJC No. 8382 of 2007 on 16.04.2009. This Court under



the said order had remanded the matter to the Appellate Authority for expeditious disposal of the petitioners' appeal. By that time the petitioner has already attained the age of superannuation with effect from 28.02.2009. Pursuant to direction of this Court in the order dated 16.04.2009 petitioner's termination was set aside by the Appellate Authority by order dated 11.06.2009 but no direction was issued with regard to grant of back wages to the petitioner. The position was accepted by the writ petitioner and all other benefits which the petitioner was entitled to including the retiral dues have been paid to the petitioner. No grievance on account of back wages was raised ever since 2009.

4. This Court would take note of the fact that during the said period when the petitioner had gone on strike, the authority had considered the case of various employees and they were put under two different categories. It appears that one Santosh Kumar Sinha who was not amongst the 72 candidates with whom the case of the petitioner was decided, was pursuing his case in a separate proceeding.

5. The petitioner has filed this writ petition since in the case of said Santosh Kumar Sinha certain orders have been passed by the Hon'ble High Court on 28.09.2012. He submits that pursuant to



the said order dated 28.09.2012 back wages have been paid to the said Santosh Kumar Sinha.

6. The claim of parity with said Santosh Kumar Sinha is vehemently denied by the respondent authority. Specific stand has been taken that petitioner's case is not similar to the said Santosh Kumar Sinha as in the case of said Santosh Kumar Sinha certain orders dated 28.09.2012 have been passed by this Court in Civil Review No. 229 of 2010 (Annexure 4 series) but such orders have not been passed in the case of the petitioner. The petitioner is also not a party to the proceedings arising out of said Civil Review No. 229 of 2010. It has also been contended that Santosh Kumar Sinha with whom the petitioner claims parity was not amongst the 72 employees who were appellant before the appellate Authority and as such the claim of the petitioner has been treated along with 72 employees who were parties to the writ proceedings arising out of C.W.J.C. No. 11737 of 2008.

7. The specific assertion of the respondent authority in paragraph 23 of the counter affidavit that the claim of the petitioner was not similar to that of Santosh Kumar Sinha, has not been denied by the petitioner. Even though a rejoinder has been filed the specific averments distinguishing the claim of the petitioner with that of



Santosh Kumar Sinha has not been denied or disputed in the rejoinder. Other than that this Court would observe that the claim of this petitioner at this belated stage on the strength of orders passed in the case of Santosh Kumar Sinha with whom his case is not similar cannot be entertained.

8. The writ petition seeking salary for the period 12.03.2008 to 28.02.2009 filed in the year 2014 i.e., about five years after the petitioner had taken the benefits of the order passed by the Appellate Authority and derived all the benefits on account of post retiral dues and others, without any objection would be barred on the principles of acquiescence, waiver & estoppel. The writ petition is also barred by principles of delay and laches. Other than that the petitioner had derived the benefits under order of the Appellate Authority whereby service of the petitioner has been reinstated without back wages.

9. For the reasons indicated hereinabove, the writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

