

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18175 of 2016

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Raj Kishore Rai, Son of Late Mukteshwar Rai, Resident of Village- Madhopur,
P.S. Bausidih Road, District- Balia (U.P.).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Chief Engineer, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Work Circle, Siwan.
6. The Executive Engineer, Rural Works Department, Rural Works Division- Gopalganj-2.
7. The Executive Engineer, Rural Work Department, Rural Works Division (Mahua) Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-08-2018

Heard learned counsel for the petitioner and the State.

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

“(i) For issuance of an appropriate writ in quashing Letter No. 743 dated 27.08.2015 issued by the Executive Engineer, Rural Works Department, Work Division- Gopalganj-2, whereby and whereunder Rs. 598569.00 has been deducted from the unutilized leave encashment contained in Anneuxre-7.

(ii) For issuance of an appropriate writ commanding the respondents to refund the deducted amount of Rs. 598569.00 with interest at the rate of 12% interest.

(iii) For any other relief or reliefs for which the petitioner is entitled under law as well as on the



facts of the case.”

3. From the materials on record, especially the counter affidavits filed by the authorities, it transpires that finally they have accepted that for the remaining amount withheld from the Leave Encashment of about Rs. 6 lakhs, the same has been accounted for by verification of the vouchers and other receipts submitted by the petitioner.

4. Learned counsel for the petitioner submitted that he has already moved the Court earlier in C.W.J.C. No. 3119 of 2014, soon after his superannuation which was disposed off on 29.10.2015, directing the authorities to take a decision with assistance from the petitioner with regard to utilization of the advance taken which was held to be outstanding against the petitioner. In terms thereof, it appears that now the matter has been reconciled.

5. Learned counsel for the State submitted that it was the responsibility of the petitioner to have followed up the matter with the authorities for reconciling of the vouchers submitted by him. The Court finds such objection to be frivolous for the reason that right from the beginning, the stand of the petitioner was that he had already submitted the vouchers and concerned documents to the authorities and further, he had also moved before the Court soon upon his superannuation in C.W.J.C. No. 3119 of 2014, which was



disposed off with a direction to the Department concerned to resolve the matter with assistance of the petitioner. Nothing has been brought on record in the counter affidavit filed on behalf of the authorities that any further vouchers/documents were submitted by the petitioner for such reconciliation. This being the position, the Court can only presume that whatever was required to be done by the petitioner, by way of submitting necessary vouchers and other connected documents for reconciliation, had already been submitted by him at the relevant time itself and thus, it was the responsibility and duty of the authorities to get the same verified. Now, once the same has been done and it has been found that the amount stands reconciled, the petitioner cannot be allowed to suffer any penal consequences. The petitioner superannuated on 31.07.2014 i.e., four years back and payment has been made on 30.06.2017 i.e., almost after three years. There being no fault or laches on the part of the petitioner as it was the responsibility of the authorities to ensure proper reconciling of the vouchers and other documents submitted by the petitioner, the Court finds that the petitioner is entitled to award of interest. The Court is fortified in its view in light of the order of the Hon'ble Supreme Court in the case of **D. D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.** reported as (2014) 8 SCC 894.

6. Accordingly, the writ petition stands disposed off with



a direction to the authorities to pay 9% simple interest on the amount of Rs. 5,98,569/- to the petitioner from the date of his retirement till the date of actual payment. The same be paid within two months from the date of production of a copy of this order before the respondent no. 6.

7. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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