

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16326 of 2016

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Vijay Bhushan Prasad Son of Late Laxmi Prasad resident of Mohalla - Budha
Colony, P.S. Budha Colony, District Patna

.... Petitioner/s

Versus

1. The Bihar State Electricity Board through its Chairman Cum Managing
Director, Bihar State Power Distribution Company Limited, Patna
2. The Joint Secretary, Bihar State Electricity Board, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Banwari Sharma with Mr. Shiv Kumar and Mr. Sahjanand Sharma, Advocates
For the B.S.P.H.C. Ltd.	:	Mr. Ranjit Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 09-08-2018

Heard learned counsel for the petitioner and Bihar State
Power Holding Company Limited (hereinafter referred to as the
'Company').

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

“ That the present application is for issuance of writ in the nature of writ of certiorari for quashing the order of punishment as contained in Annexure-5 dated 19.3.1999 passed by the concerned Authority punishing the petitioner by withholding five percent of pension from the petitioner's post retirement benefit without considering and



properly acknowledging the fact and legal aspect of the matter that a government servant is exonerated from the charge by the inquiry officer then the disciplinary authority has to issue a show cause differing with the inquiry report and only after considering the same second show cause can be issued to the concerned government employee which is clearly held by the judgment given by Hon'ble Supreme Court in Kunj Bihari Mishra case and since procedure has not been followed the petitioner is entitled for five percent pension with all consequential benefits as passed by Disciplinary authority and since the petitioner is a patient of cancer and he is traveling to pillar to post for several years he is entitled to 18% interest for the amount illegally withheld by the concerned authority. And/or pass such other order or orders as this Hon'ble Court think fit and proper."

3. Learned counsel for the petitioner submitted that the authorities while serving second show cause had also communicated the punishment which is in the teeth of the law laid down by the Hon'ble Supreme Court in the case of **Punjab National Bank v. Kunj Behari Misra** reported as **AIR 1998 SC 2713**.

4. Learned counsel for the Company submitted that the punishment order was passed in the year 1999 and the petitioner having superannuated in the year 1997, the writ petition having been



filed after 17 years, is liable to be dismissed on this ground alone.

5. Having considered the rival contentions, since the punishment relates only to withholding of 5% pension and also considering the fact that the matters have now been settled for almost two decades, the Court does not feel inclined to interfere. Accordingly, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J)

Anjani/-

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