IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16629 of 2015

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1. Suman Devi Widow of Late Kameshwar Prasad.
2. Anirudha Patel.
3. Abhishek Patel Both Sons of Late Kameshwar Prasad.
4. Arundhati, Wife of Shri Gajendra Kumar.
5. Alpana, Both daughter of Late Kameshwar Prasad (deceased sole petitioner). All Presently residence of Mohalla- Shanti Niketan Colony, near Bihar College of Pharmacy, P.S Rupaspur, P.O.- Danapur, Bailey Road, Patna District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bihar Patna.
4. The Executive Engineer, Public Health Division, Hilsa, District Nalanda.
5. The Accountant General, Birchand Patel Path, Patna District Patna.
6. The District Provident Fund Officer, Nalanda at Biharsharif, District Nalanda.
7. The Treasury Officer Danapur, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pandit Jee Pandey and
Mr. Nawnit Kumar Tiwary, Advocates

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 20-06-2018

Heard learned counsel for the petitioners; State and Accountant General.

2. The petitioners have moved the Court for the following reliefs:

> *"That this application is being filed for issuance of an appropriate writ in the nature of mandamus or any other appropriate writ, order or direction commanding the respondents to pay the following dues/ claims out of petitioner's retiral benefit admissible to him-*
>
> *(g) The petitioner was granted A.C.P.*

benefit w.e.f. 9.8.1999 but the same was granted on 15.7.2009 to the petitioner and as such the difference of salary from 9.8.1999 to 31.1.2001 is still due with the respondents and accordingly the amount of his enhanced Gratuity and Leave Encashment with interest is still due with the respondents.

(h) The illegal withholding of Rs. 40,000/- out of petitioner's gratuity has not been paid to the petitioner till the date and is still due with interest.

(i) The amount of Rs. 10,000/- out of the amount of Leave Encashment with interest thereupon is still due with the respondents.

(j) The amount of General Provident Fund is part admissible to the petitioner is still due with interest with the respondents.

(e) The amount of any other dues admissible to the petitioner in the facts and circumstances of the case.

(f) And for any other relief/reliefs for which the petitioner may deemed entitled to."

3. During the pendency of the writ petition, payments have been made. However, with regard to payment of G.P.F. dues, the Bank draft submitted by the learned State counsel has been sent for encashment and with regard to payment of withheld gratuity of Rs. 40,000/-, authority has been issued by the Accountant General on 26.12.2017 but due to communication to the wrong authority, the same has now been sent to the Treasury Officer, Danapur on 08.05.2018.

4. Learned counsel for the petitioners submitted that withholding of Rs. 40,000/- from the gratuity due and payable to the original writ petitioner was totally arbitrary as there is no valid

reason assigned by the authorities for such amount to be withheld. It was submitted that the original writ petitioner superannuated on 31.01.2001.

5. Learned counsel for the State submitted that the petitioners were not accepting payment on several occasion and, thus, finally the Bank draft for the G.P.F. amount was handed over to him in the Court and, thus, he is not entitled to payment of any interest on the same as the delay was due to his fault.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that as of now all due payment to the petitioners have been made. However, with regard to payment of Rs. 40,000/- , the authority has only been issued but actual payment has not been made. Thus, direction is issued to the Treasury Officer, Danapur, who is impleaded as respondent no. 7, to ensure that if such payment has not been made, the same be made within four weeks form the date of receipt of a copy of this order by him. Learned counsel for the State accepts notice on behalf of newly added respondent no. 7.

7. With regard to the claim for interest on delayed payment, since the stand of the State that the original writ petitioner had refused to accept the amount earlier, the Court does not find that any order for interest is required. However, the same is restricted

only with regard to G.P.F. With regard to gratuity, for no valid reason, an amount of Rs. 40,000/- was withheld by the authorities which was due and payable to the original writ petitioner on the date of his superannuation i.e., 31.01.2001.

8. Thus, having regard to the aforesaid and the decision 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**, the Court deems it appropriate to award 9% simple interest on Rs. 40,000/- of the gratuity amount from the date it became due till the date of actual payment. The same shall also be credited into the account of the petitioner no. 1, within four weeks from the date of production of a copy of this order before the respondents no. 4 and 7.

9. Let necessary correction be made in the cause title of the writ petition by learned counsel for the petitioners during the course of the day.

10. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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