

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16789 of 2016

Along with

Interlocutory Application No. 6926 of 2018

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Krishna Ballabh Das, Retired Senior Store Keeper, aged about 64 years, Electric Supply Division, Madhepura, Son of Late Nathuni Lal Das, At and P.O. Nawani, P.S. Jhanjharpur, District Madhubani, Pin-847410.

.... Petitioner/s

Versus

1. Chairman-cum-Managing Director, Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
2. The Managing Director, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna-800021.
3. The Deputy General Manager (HRD and ADM), North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna-800021.
4. The General Manager-cum-Chief Engineer, Koshi, Electric Supply Area at and P.O. Saharsa, District Saharsa.
5. The Deputy General Manager, (Finance) North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna-800021.
6. Senior Manager, (BNL), North Bihar Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna- 800021.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramnandan Kumar Sinha and
Mr. Nitesh Kumar Nirala, Advocates

For the Respondent/s : Ms. Archana Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-09-2018

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

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2. At the very outset, learned counsel for the Company submitted that she will not be pressing the Interlocutory Application



filed on behalf of the Company.

3. Accordingly, the same stands dismissed as not pressed.

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

“That this is an application for issuance of a writ of certiorari quashing the impugned order No. 283 dated 16.04.2015 of respondent No. 5 through which a sum of Rs. 2,06,689.00 has been recovered after a belated period of four years of retirement (31.03.2011) on account of increment sanctioned without passing Hindi Noting Drafting examination which is hereby challenged with a prayer to quash the same with all consequential benefit. The issue has already been decided in large number of cases by Division Bench of this Hon’ble Court as well as Hon’ble Supreme Court that no recovery is permissible after a belated period more than 26 years when there has been no misrepresentation /fraud by the petitioner. Besides above the petitioner has not been paid the 6th Pay Commission arrear amounting Rs. 1,07,000.00 and also interest on delayed payment of Gratuity.

It is therefore humbly prayed that after quashing the impugned order, a direction may kindly be issued for payment of aforesaid claims.”

5. Though by earlier orders, the Court had specifically formulated points on which the Company was required to answer, the same has not been done.

6. After some arguments, learned counsel for the Company submitted that in view of various decisions of the Court, including that of the Hon’ble Supreme Court in the case of **State of**



Punjab v. Rafiq Masih reported as **(2015)4 SCC 334**, the action of the Company cannot be sustained and the case may be disposed off in terms of the aforesaid decision.

7. Learned counsel for the petitioner submitted that there is a further prayer in the writ petition for arrears on account of 6th Pay Revision, which has not been paid.

8. Learned counsel for the Company submitted that the same was also under process and would be paid and only because of the order for recovery, everything had been kept pending.

9. Having considered the facts and circumstances of the case and the stand taken by learned counsel for the Company, the writ petition stands disposed off. Let the amount recovered from the petitioner be returned to him and the benefit of 6th Pay Revision, as admissible in law, be paid to the petitioner within four weeks from the date of production of a copy of this order before the respondent no. 4.

(Ahsanuddin Amanullah, J.)

P. Kumar

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