

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9125 of 2011

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Abu Talib, S/O Md. Ishaque, R/O Mohalla - Nadariganj, Ram Sagar Road, P.S. -
Civil Line, Distt. - Civil Line, Distt. - Gaya

.... Petitioner

Versus

1. Bihar State Electricity Board through Its Chairman, Vidut Bhawan, Bailey Road, Patna
2. General Manager-cum-Chief Engineer, Magadh Electric Supply Division, Gaya
3. Joint Secretary, Bihar State Electricity Board, Vidut Bhawan, Bailey Raod, Patna

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Sourendra Pandey and
Mr. Nalin Vilochnan Tiwary, Advocates.
For the Respondents (BSEB): Mr. Santhosh Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
Date: 26-02-2018

Heard learned counsel for the parties.

2. The present Writ Application has been filed for quashing the order no. 2086 dated 17.07.2008 passed by the Joint Secretary, Bihar State Electricity Board as contained in Annexure-1 to the Writ Application.

3. By the impugned order, the Joint Secretary, General Administration Department, Bihar State Electricity Board (now known as Bihar State Power Holding Company Limited) declared that the date of birth of the petitioner would be taken as 19.11.1941 and by virtue of that he would retire on 30.11.2001. It has further been decided by the impugned order that the period from December, 2000 to November, 2001 shall be taken into consideration for calculation of



his post-retiral dues but the said period shall not be considered for payment of salary, etc. on the principle of 'No Work No Pay'.

4. It appears that during pendency of this Writ Application the respondents granted some benefits to similarly situated persons and, on such information supplied to this Court, vide order dated 07.01.2016 a co-ordinate bench of this Court directed the learned counsel for the respondents to seek instruction on the point as to once in similar circumstance other persons have been granted the relief then what was the reason for denying the same relief to the petitioner. Learned counsel was also directed to seek instruction from the authority concerned on their examining the feasibility to grant same relief to the petitioner as well.

5. In terms of order dated 07.01.2016, when the Court was not informed, vide order dated 08.02.2016, the matter was adjourned to enable learned counsel for the respondents to file a Supplementary Counter Affidavit in view of the order dated 07.01.2016. Despite the indulgence given by this Court, the Supplementary Counter Affidavit was not filed. The matter was lastly taken on 31.01.2018 when after taking note of all the previous orders passed by this Court, on the request made by learned counsel representing the respondents, as a matter of last indulgence, a further two weeks' time was granted to file the Supplementary Counter Affidavit in terms of the order dated



07.01.2016.

6. Today, learned counsel representing the respondents has drawn my attention towards the Supplementary Counter Affidavit placed on the record. From the statements made in Paragraph 6 of the Supplementary Counter Affidavit, the following facts would emerge:-

“6. That during the period he was made to retire the petitioner was paid pension but under the orders of the court the retirement period was treated to be his working period but the amount paid on account of pension was neither recovered nor refunded by the writ petitioner and as such the payment made on account of pension would be adjusted towards salary and the rest of the amount to the tune of Rs. 89,945.00 has already been paid to the petitioner vide cheque no. 539008 dated 16/2/2018.”

7. In view of what has transpired from the statements made in Paragraph 6 of the Supplementary Counter Affidavit, learned counsel for the petitioner agrees that now nothing remains for adjudication in the present Writ Application. He, however, expressed his apprehension as to whether payments have actually been made to the petitioner or not. Learned counsel for the respondents has reiterated that payments in terms of the statements made in Paragraph 6 of the Supplementary Counter Affidavit have been made to the petitioner.



8. At this stage, learned counsel representing the petitioner submits that in fact the payment of Rs. 89,945/- is on account of the salary for the period from December, 2000 to November, 2001 and in the Supplementary Counter Affidavit there is no explanation at all as to why this petitioner was not treated similar to the others at earlier point of time. Submission is that having deprived the petitioner from getting his salary for the period he had already worked the respondents have made themselves liable to compensate the petitioner for the monetary loss which he has suffered due to non-payment even though the mental agony cannot be compensated at this stage.

9. Since nothing remains for adjudication in the present case, the Writ Application is being disposed of with liberty to the petitioner to submit a representation to the Chairman of the South Bihar Power Distribution Company, which is a subsidiary of the Bihar State Power Holding Company (the Holding Company of the Bihar State Electricity Board) within a period of four weeks from today. On receipt of such a representation regarding claim of interest by the petitioner, the Chairman, South Bihar Power Holding Company shall consider the same keeping in view the statements, which have been noted here-in-above, and shall pass a reasoned order within a period of three months from the date of receipt of the representation together with a certified copy of this order.



10. In case the Chairman, South Bihar Power Distribution Company agrees to compensate the petitioner for the delayed payment, the same should be made within next one month. However, in case the request of the petitioner is not considered and / or decided against him, he will have liberty to agitate the issue in accordance with law.

11. The Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.02.2018
Transmission Date	N/A

