IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3692 of 2017
In
Civil Writ Jurisdiction Case No.20387 of 2012

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Brij Bihari Singh son of Late Rameshwar Prasad Singh, resident of 68-A, Patliputra Housing Colony, P.S. Patliputra, District- Patna.

... ... Petitioner

Versus

1. Bihar State Financial Corporation, Fraser Road, Patna through its Managing Director
2. Sri Pradip Kumar, son of name not known to the petitioner, Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
3. Dy. Manager (EPF), now Consultant I/C (EPF), Bihar State Financial Corporation, Fraser Road, Patna.

... ... Opposite Parties

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Appearance :
For the Petitioner/s : Mr. Subhash Chandra Bose
For the Opposite Party/s : Mr. Raju Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 04-09-2019

Heard learned counsel for the petitioner and learned counsel appearing for the opposite parties.

2. This application under Article 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act has been filed by the petitioner for initiation of a contempt proceeding against the opposite parties for their willful and flagrant violation of the order dated 22.12.2016 passed in CWJC No. 20387 of 2012.

3. Learned counsel appearing for the petitioner submitted that the opposite parties have implemented the order partially and paid Rs.91,133/- only, which was payable as interest upto 30.06.2011 by cheque on 15.03.2017. They did not pay

further interest accrued on Rs.91,133/- from 30.06.2011 till actual date of payment, i.e., 15.03.2017. The non-payment of interest accrued on Rs.91,133/- from 30.06.2011 to 15.03.2017 would clearly amount to violation of the order dated 22.12.2016 passed in CWJC No.20387 of 2012.

4. Per contra, learned counsel appearing for the opposite parties submitted that the order dated 22.12.2016 has been duly complied with within two and a half months from the date of passing of the order. The opposite parties have calculated the interest and made payment to the petitioner. According to him, since the order of the Court has been complied with, no case for initiation of contempt proceeding is made out.

5. The operative portion of the order dated 22.12.2016 passed by this Court in CWJC No. 20387 of 2012 reads as under :-

> "10. I find substance in the arguments advanced by the learned counsel for the petitioner. There is no dispute regarding the date of payment of balance amount of Employees Provident Fund Account. As stated above, Rs.3,70,043.62/-was paid to the petitioner on 30th June, 20111 was made only upto 27th August, 2008.
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> 11. Apparently, the amount lying in the Employees Provident Fund Account managed by the trust of Bihar State Financial Corporation earned interest till the date of its payment to the petitioner.

12. In order to appreciate the issue involved in the present case, it would be proper to extract Regulation 17 of the Bihar State Financial Corporation Employers Provident Fund Regulations, which reads as under:

> "17. (1) When the sum standing to the credit of a member in the fund becomes payable, if the administrators so direct, where the member has been dismissed from the employment of the Corporation for misconduct, fraud or gross negligence, or where he has resigned such employment within five years of the commencement thereof, payment of the whole or any part of the Corporation's contributions and interest accrued on such contributions credited to the individual account of the member from such sum may be withheld and the amount so withheld shall lapse to the fund.
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> (2) Where the member has been dismissed from employment or where he has resigned such employment in the circumstances specified in Clause (1) and the Administrators do not make a direction under that clause, thereby, if the Board of Director so directs, be deducted from the sum standing to the credit of the member in the fund in his individual account and paid to the Corporation the whole or any part of such contributions and interest.
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> (3) Where the member has been dismissed from employment or where he has resigned such

employment in the circumstances specified in clause (1) and the Administrators make a direction under that clause, there may, if the Board of Director so directs, be deducted from the sum standing to the credit of the member in the fund in his individual account and paid to the Corporation the whole or any part of such contributions and interest which have not lapsed to the fund under clause (1).

(4) When the sum standing to the credit of a member in the fund becomes payable there may, if the Board of Directors so directs, be deducted therefrom and paid to the Corporation any amount due under a liability incurred by the member to the Corporation, but not exceeding in any case the total amount of such contributions and interest which has not lapsed to the fund under clause (1) and which has not been deducted under clause (2) and (3).

(5) The Administrators shall be the sole judges of the sufficiency of the reason or reasons for withholding payment under clause (1) and the Board of Directors shall be sole judges for making an order of deduction under clauses (2), (3) and (4).

(6) The amount due under the liability referred to in clause (4) shall be determined by the Board of Directors.

13. A close look to the Regulation 17 would make it clear that the Administrator and the Board of Directors are authorized to direct withholding and deduction respectively by Clause 17. However, none of them has exercised such power in the present case. Under such circumstances, there was no reason for the respondent-Corporation to deny the payment of statutory interest as applicable to such fund. It is not disputed that the amount earned interest till it remained to the credit of the petitioner in his Provident Fund Account.

14. Hence, I do not find any rational as to why interest accrued in Employees Provident Fund of the petitioner would not be paid to the petitioner after 27th August, 2008. The two orders of this Court on which the petitioner have placed reliance also support the contention of the petitioner.

15. Under the circumstances, the writ petition is allowed with a direction upon the respondents-Bihar State Financial Corporation to pay the petitioner statutory interest on the amount accrued lying in his Provident Fund Account until payment of the same within a period of two months from the date of production of a copy of the order before the respondent no.2.

6. In para 6 of the show cause filed on behalf of the opposite parties, in tabular chart, the interest, as given to the

petitioner for different financial year has been narrated. The same is as under :-

Amount (Rs.)	Date from	To	Days	Interest rate	Compounding interest
370043.62	28.08.2008	31.03.2009	216	9.200%	20146
390189.62	01.04.2009	31.03.2010	365	7.95%	31020
421209.62	01.04.2010	31.03.2011	365	6.98%	29379
450588.62	01.04.2011	30.06.2011	90	9.53%	10588
					91133

7. It is an admitted fact that payment of the provident fund was made to the petitioner on 30.06.2011 but the interest was calculated upto 27.08.2008 only. It was in this background the petitioner had claimed in the writ petition that the amount lying in the employees provident fund account managed by the trust of the Bihar State Financial Corporation earned interest yearly till the date of payment. The same became payable to an employee immediately after the master and servant relationship of the employee came to an end on attaining the age of superannuation.

8. In the background of the lis between the parties, this Court held in its order dated 22.12.2016 that there is no justifiable reason for denial of interest over the amount payable to the petitioner under the head Employees Provident Fund Account from 27^{th} August, 2008 to 30^{th} June, 2011.

9. Since the interest for the period during which the petitioner was denied payment after his retirement has already been paid to him by the Corporation, I am of the opinion that no case for initiation of contempt proceeding is made out.

9. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09-09-2019
Transmission Date	