IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1491 of 2018
In
Civil Writ Jurisdiction Case No.5400 of 2014

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Dr. Rajan Sinha Son Of Late Dr. Ganesh Prasad Sinha Resident Of Mohalla Road No. 10-H, Rajendra Nagar, Police Station Kadam Kuan, District Patna

... ... Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Sugar Cane, Govt. of Bihar, New Secretariat, Patna
2. The Cane Commissioner, Department Of Sugar Cane,Govt. Of Bihar, New Secretariat, Patna
3. The Managing Director, Bihar State Sugar Corporation Limited, Arunalaya Ram Jaipal Nagar,Bailey Road, Patna

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Aditya Narain Singh, Adv.
		Mr. Kundan Kumar Sinha, Adv.
For the Respondent/s	:	Mr.Yogendra Pd. Sinha- AAG 7
		Mr. Shankar Kumar, AC to AAG 7
For Respondent No.3	:	Mr. Gyan Shankar, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-04-2019

The appellant has come up challenging the judgement of the learned Single Judge dated 5.9.2018 passed in C.W.J.C. No.5400 of 2014 contending that the learned Single Judge has not taken notice of the developments in terms of the Exit Settlement Plan which policy is invalid and, therefore, the denial of the pay revisions as well as the other consequential benefits by the respondent Corporation is unjustified. There is no rationale to give benefits for just half of the period, more so when the financial position of the Corporation is sound and there was no justification to deny the benefits to the appellant.

We have been able to lay our hands on the letter dated 23rd October, 2013 indicating the contour of the exit plan. The exit policy as promulgated by the Government of India has also been relied upon by the learned counsel for the appellant to contend that the excuse set up by the respondents is no longer available and, therefore, the reliefs prayed for should be granted as the implementation of the said plan was without jurisdiction and detrimental to the interest of the employees of the Corporation. It is the contention of the learned counsel for the appellant that it was on account of the efforts of the appellant that certain others were extended the benefits, but when it came to the appellant's claim, the respondents have taken a plea that it is running in financial distress. The implementation was brought about vide Resolution dated 23rd October, 2013 which is Annexure-1 to the writ petition and which is under challenge.

According to the counter affidavit, the said plan was approved by the Cabinet, Government of Bihar and, therefore, it is not correct to say on the part of the appellant that the approval is not by the competent authority. Annexure-A being the approval of the Cabinet communicated through the Principal Secretary has been relied on by the respondents.

It is also stated that it was pursuant to the order passed in C.W.J.C. No.8875 of 2012 (Binod Kumar Poddar Vs. The State of Bihar) that the said settlement was finalized. The disbursement of funds is also being carried out under the directions issued from time to time through various judicial fora and, therefore, to say that it is in a proper financial position is not correct.

Learned counsel for the appellant submits that many of the assets of the Corporation have yielded lot of funds is a mere excuse.

We find that in the case of Binod Kumar Poddar (supra), the following directions were issued by a learned Single Judge of this Court contained in paragraph Nos.10 to 14 which is extracted hereinunder:

> "10. Learned counsel for the respondent Corporation asserts that no employee of the Headquarter has been paid his arrears of salary and other dues. The respondents herein have no intention to discriminate amongst the employees. There is also dearth of employees in the Headquarters of the Corporation. Hence the work of Headquarters fails to attain the desired pace. However, efforts are on to prepare the salary dues of all the employees of the Headquarters and a proposal for

approval of an Exit Settlement Plan for the employees of the Headquarters will be placed before the Government within a fortnight as stated above. As soon as the proposed Exit Settlement Plan for the employees of the Headquarters is passed by the Government and fund is made available, all the employees including the present petitioner will be paid their all kinds of dues in accordance with law.

11. The aforesaid difficulties of the Corporation cannot be ruled out, but at the same time it is the duty of the Corporation as well as the State of Bihar and their respective authorities to consider the pitiable condition of their employees which is apparent from the condition of the petitioner and take necessary steps in that regard as early as possible. However, it transpires that there had been a dilly dallying method adopted by the authorities as even according to the claim of the respondents the condition of the Corporation had become weak since more than a decade, but no step had been taken as a result of which the petitioner and similar situated employees could not be paid their well deserved salaries for years together. This attitude should not be tolerated now and the authorities must come out from their deep slumber as mere efforts will not affect the legal procedures and the justified claim of the genuine employees of the Corporation, specially when the said employees are the residents of the welfare State and are in such miserable condition.

12. In their counter affidavit dted 10.05.2012 the authorities of the Corporation had stated that a proposal for approval of Exit Settlement Plan for the employees of the Headquarters will be placed before the Government within fortnight as stated above and as soon as the proposed Exit Settlement Plan for the employees of the Headquarters is passed by the Government and fund is made available, all the employees including the present petitioner will be paid their all kinds of dues in accordance with law.

> 13. In view of the aforesaid statement of the authorities of the respondent Corporation themselves in their affidavit dated 10.05.2012, the proposal for approval of the Exit Settlement Plan of the employees of the Headquarters must have already been placed before its parent Department of Sugarcane and if it is not submitted till date the Managing Director or any In-charge of the Corporation is directed to submit the said proposal for approval of Exit Settlement Plan before the Principal Secretary, Sugarcane Department, Government of Bihar positively within a fortnight from today, and thereafter the Principal Secretary of the Department will take immediate steps to get the said proposal passed and made the fund available to the Corporation expeditiously.
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> 14. Put up this case on 3rd of September, 2012 under the same heading retaining its position and on that date learned counsel for the Corporation as well as learned counsel for the State of Bihar must file their respective affidavits showing the development and the steps with respect to the proposal and payments."

The exit plan appears to have been formulated accordingly. Learned counsel for the Corporation has also invited the attention of the Court to the order dated 26.3.2010 in the case of Ram Krishna Roy & Ors. Vs. Bihar State Sugar Corporation Ltd. & Ors. and the judgement in the case of Ram Bharosa Singh & Ors. Vs. The Bihar State Sugar Corporation Ltd. of the same date.

We find that in the aforesaid background it will not be possible to exercise our power of judicial review to set aside a policy which is based on certain facts. On an examination of the same, we se no reason to disagree with the decision of the learned Single Judge and, accordingly, the appeal is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

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