

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.256 of 2017

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Kalikant Jha S/o Late Surya Narayan Jha, resident of Village- Navtol,
Jhanjharpur, P.O.- Jhanjharpur R.S. P.S.- Madhepur, District- Madhubani.

... .. Petitioner/s

Versus

1. The Bihar State Power Holding Company Ltd. through its Chief Managing Director-cum-Chairman, Vidyut Bhawan, Bailey Road, Patna.
2. The Managing Director, North Bihar Power Distribution Co. Ltd. Vidyut Bhawan, Bailey Road, Patna.
3. The General Manager H.R. and Administration, North Bihar Power Distribution Company Ltd. Vidyut Bha
4. The Dy. General Manager Revenue, North Bihar Power Holding Distribution Company Ltd. Vidyut Bhawan
5. The Deputy General Manager cum Electrical Superintending Engineer, Mithila Electric Supply Area, Lalbagh, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Gupta, Advocate.

For the Respondent/s : Mr.Vinay Kirti Singh, Sr. Advocate.
Mr. Vijay Kumar Verma, Advocate.
Mr. Akhileshwar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 19-06-2019

Heard learned counsel for the parties.

2. The petitioner has filed the present writ application claiming 15% compoundable interest on pension, G.S.S., Gratuity and leave encashment for the delayed payment, mentioned in paragraph-22 of the writ application.

3. Learned counsel for the petitioner submits that there was inordinate delay in payment of pension, gratuity and other retiral dues. He further submits that arrears of pension for the period July,



2010 to March, 2016 was paid on 18.05.2016 and gratuity amount was paid on different dates, as mentioned in paragraph-22 of the writ application.

4. Mr. Vinay Kirti Singh, learned senior counsel appearing on behalf of the respondents submits that due to wrong fixation of salary of the petitioner, an office order was issued on 16.11.2010 for recovery of amount from the gratuity of the petitioner and the petitioner had challenged the aforesaid office order issued by the respondent authority reducing the salary of the petitioner and recovery of the same from the gratuity before this Court in CWJC No. 1625 of 2011, which was disposed of on 14.10.2014 by which the impugned office order was quashed and the matter was remanded back for proper fixation of pay of the petitioner and the payment of rest amount of gratuity as the same was wrongly recovered from the gratuity of the petitioner.

5. Learned senior counsel accordingly submits that since the petitioner had approached this Court earlier but he did not raise any claim regarding interest upon delayed payment or wrong recovery as such the writ application filed by the petitioner, only for payment of interest on the retiral dues, may not be entertained. The second writ application only for claiming interest is barred by principle of *constructive res judicata*.

6. After having heard learned counsel for the parties and



after going through the writ application as well as the order dated 14.10.2014 (Annexure-3), it transpires that petitioner had earlier approached this Court, vide CWJC No. 1625 of 2011, raising dispute regarding wrong recovery of amount from his gratuity but he did not raise any claim with regard to interest thereof in that writ application. The present writ application has been filed on the ground that due to wrong order passed by the respondents, there was delay in payment of gratuity amount to the petitioner and further that gratuity was paid on different dates after retirement of the petitioner, therefore, he should be given interest upon delayed payment of gratuity and pension. In my opinion, the present writ application is not tenable inasmuch as the petitioner has filed the writ application for payment of interest only but has failed to show any statutory provision under which he is entitled to be given interest on delayed payment of gratuity. Accordingly, I am not inclined to exercise extra ordinary writ jurisdiction directing for payment of interest as such present writ application fails and the same is dismissed.

(Anil Kumar Sinha, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

