

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6407 of 2017

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Kalawati Devi W/o Late Sri Sant Kumar Vill P.O. P.S. - Sikandra, District -
Jamui Bihar.

... .. Petitioner/s

Versus

1. The Bihar State Electricity Board through its Chairman, Vidyut Bhawan,
Bailey Road, Patna
2. The Joint Secretary, The Bihar State Electricity Board, Vidyut Bhawan,
Bailey Road, Patna.
3. The Executive Engineer, Electric Supply Division, Dehri-on-Son, P.O. and
P.S. - Dehri-on-Son, Distr
4. General Manager-cum-Chief Engineer, Magadh Electric Supply Division,
Gaya.
5. Electric Superintendent Engineer, Electric Supply Circle, Sasaram.

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 27-06-2019

The present writ petition has been filed for quashing the order dated 18.2.2016 containing the order dated 30.1.2016 issued by the Chairman cum Managing Director of the Bihar State Power Holding Company Limited, as also it has been prayed that the respondents be directed to pay the retiral dues of the husband of the petitioner herein.

2. The brief facts of the case, according to the petitioner herein are that the husband of the petitioner while posted as



Junior Engineer, Electrical Supply Division, Darihat (Dehri-on-Sone) became traceless in the month of May, 2001, whereafter *sanha* was lodged in the police station, however, the department proceeded against the husband of the petitioner for willful, deliberate and unauthorized absence from official duty and dismissed the husband of the petitioner from the services of the Bihar State Electricity Board, Patna by passing an order contained in memo no. 15.11.2007.

3. The petitioner is stated to have challenged the aforesaid order of dismissal dated 15.11.2007 by filing a writ petition bearing C.W.J.C. No. 625 of 2010, which was disposed off by a coordinate Bench of this Court by an order dated 23.2.2010, whereby and whereunder, though no interference was made with the order of the Bihar State Electricity Board dismissing the husband of the petitioner from his services, but the learned Single Judge directed that the resolution of the Board dismissing the husband of the petitioner from his services dated 15.11.2007 would come into effect from the date of issuance of the said resolution i.e. 15.11.2007. The relevant portion of the aforesaid order dated 23.2.2010 is reproduced hereinbelow:-

“Without going into the correctness or otherwise of the submission of the parties that husband of the petitioner was deliberately avoiding his appearance before the authorities



of the Board, I modify the resolution of the Board dismissing the husband of the petitioner dated 15.11.2007, Annexure-5 to come into effect from the date of the resolution and the dismissal shall come into effect from 15.11.2007, the date of the resolution.”

4. The Respondent erstwhile Bihar State Electricity Board appears to have challenged the aforesaid order passed by a coordinate Bench of this Court dated 23.2.2010 by filing an appeal bearing L.P.A. No. 1126 of 2012, however, the appeal was dismissed by the learned Division Bench of this Court by an order dated 27.8.2012. Thereafter, the petitioner appears to have filed a review petition seeking review of the order dated 27.8.2012 passed by the learned Division in L.P.A. No. 1126 of 2012, however, the same was permitted to be withdrawn by an order dated 9.9.2015 passed by a learned Division Bench of this Court with liberty to the petitioner to approach the appropriate authorities with appropriate application, but no interference was made either with the aforesaid order dated 23.2.2010 passed by the learned Single Judge in C.W.J.C. No. 625 of 2010 or the order dated 27.8.2012 passed by the learned Division Bench.

5. The learned counsel for the petitioner has submitted that the order of dismissal of the husband of the petitioner from his services is bad in law. The learned counsel for the petitioner has



further submitted that the representation of the petitioner has been wrongly rejected vide the impugned order dated 30.1.2016 as contained in letter dated 18.2.2016 inasmuch as the husband of the petitioner is traceless till date, as such he could not have been dismissed from service and the petitioner was entitled to get the death cum retiral dues. In this connection, the learned counsel for the petitioner has relied upon two judgments of this Court, one reported in 2003(3) PLJR 691 (*Kalyani Devi vs. The State of Bihar & Ors.*) and the other reported in 2011(4) PLJR 554 (*Renuka Rani vs. The State of Bihar & Ors.*).

6. I have heard the learned counsel for the parties and perused the materials on record and I find that there is no merit in the present writ petition inasmuch as the order of dismissal pertaining to the husband of the petitioner from his services dated 15.11.2007 has already attained finality with dismissal of the writ petition of the petitioner, challenging the order of dismissal dated 15.11.2007, by an order dated 23.2.2010 passed in CWJC No. 625 of 2010, as upheld by the orders dated 27.8.2012 and 9.9.2015 by the learned Division Bench in LPA No. 1126 of 2012 and Civil Review No. 127 of 2015 respectively, hence, this Court cannot revisit the issue of



dismissal of the husband of the petitioner from his services, thus, the consequences have to follow and accordingly, the petitioner is not entitled to any death cum retiral dues apart from what has already been paid i.e. the amount of general provident fund, group saving scheme, and the arrears of salary, as has been mentioned in the order passed by the Chairman cum Managing Director dated 30.1.2016.

7. Now coming to the judgments relied upon by the learned counsel for the petitioner, it would suffice to state that as far as the judgment rendered in the case of ***Kalyani Devi vs. The State of Bihar & Ors. (supra)*** is concerned, the same is not applicable in the present case since in the said case no order of dismissal had been passed by the authorities. As far as the judgment passed by a learned Single Judge in the case of ***Renuka Rani vs. The State of Bihar & Ors. (supra)*** is concerned, the same is also not of any relevance in the present case inasmuch as in the said case, the order of dismissal, pertaining to the husband of the writ petitioner therein, had been set aside by the learned Single Judge and consequently, the respondent-State authorities were directed to pay the retiral dues, however, in the present case, the situation is otherwise inasmuch as the order of dismissal of the husband of the



petitioner has not been interfered with by the learned Single Judge (order dated 23.2.2010 passed in CWJC No. 625 of 2010) but the same i.e. the order of dismissal has also not been interfered with by the learned Division Bench (order dated 27.8.2012 passed in LPA No. 1126 of 2012 & order dated 9.9.2015 passed in Civil Review No. 127 of 2015) hence, the order passed by the respondent authorities, dismissing the husband of the petitioner from his services stands approved, even by the learned Division Bench, without any interference.

8. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present case, hence, the writ petition stands dismissed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.8.2019
Transmission Date	NA

