

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20692 of 2018

=====

Rishi Kumar Ishwar Son of Late Kapileshwar Ishwar, Resident of Village -
Konaila Via Dalsinghsarai, P.S.- Dalsinghsarai, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Energy, Government of Bihar, Patna.
2. Chairman Cum Managing Director, Bihar State Power Holding Company Ltd. Vidyut Bhawan, Patna.
3. Managing Director (H.R.) North Bihar Power Distribution Company Ltd. Patna, Vidyut Bhawan, Patna
4. Managing Director Bihar State Power Holding Company Ltd. Vidyut Bhawan, Patna
5. Deputy General Manager, Personnel Administration North Bihar Power Distribution Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
6. The State of Jharkhand through the Principal Secretary, Energy Department. Government of Jharkhand, H.E.C. Dhurwa-4, Ranchi.
7. Chairman-Cum-Managing Director, Jharkhand Urja Vikas Nigam Ltd. H.E.C. Dhurwa, 4 Ranchi.
8. Managing Director, Jharkhand Urja Vikas Nigam Ltd. H.E.C. Dhurwa, 4, Ranchi.
9. Managing Director (Personnel Cum General Administration) Jharkhand Urja Vikas Nigam Ltd. Abhiyantran Bhawan, H.E.C. Dhurwa, 4, Ranchi.

... .. Respondent/s

=====

Appearance:

For the Petitioner : Mr. Arun Kumar, Advocate
For the Jharkhand Urja Vikas Nigam: Mr. Satyavrat Verma, Advocate
For the Bihar State Power Holding Co. : Mr. Vinay Kirti Singh, Sr. Advocate

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 25-08-2020

Heard learned counsel for the petitioner and learned
counsel for the respondents through video conference.

2. The following reliefs as formulated by the petitioner have
been claimed in the writ petition-

“(i) To issue a writ of mandamus or any other writ or



writs, direction or directions commanding upon the respondents to make payment of the entire retiral benefits i.e. Pension, Gratuity, G.P.F., leave encashment etc. with interest admissible to the petitioner within a period fixed by the Hon'ble Court;

(ii) To pass any such other order or orders as this Hon'ble Court thinks fit and proper under the facts and circumstances of the case."

3. It is submitted on behalf of the petitioner submits that he joined on the post of Junior Engineer in the erstwhile Bihar State Electricity Board, now Bihar State Power Holding Company Ltd. (for short "the Power Company") on 20.12.1984 and was posted at Jehanabad and thereafter transferred to various places, i.e. Sasaram, Bettiah, Muzaffarpur and Dumka from time to time. A departmental proceeding was initiated against the petitioner on 26.05.2000 on account of his remaining absent from duty from June, 1999 to August, 1999 and after holding a departmental enquiry he was dismissed from service on 08.07.2002. The petitioner preferred CWJC No. 14059 of 2003 before this Court and by order dated 19.08.2009, the dismissal order of the petitioner was set aside. The petitioner then gave his joining in the office of the Secretary of the Power Company on 01.09.2009.

4. Learned counsel for the petitioner then submits that after submitting his joining, he was waiting for posting, but in the meantime it appears that by notification no. 717 dated



28.12.2010 (Annexure-4), the Power Company transferred the services of the petitioner to the Jharkhand State Electricity Board, Jharkhand, Ranchi ('JSEB'), which was, however, not communicated to the petitioner. Pursuant to the petitioner approaching the Hon'ble Chief Minister, Bihar for a direction to the respondent authorities, the respondent-Power Company wrote a letter to the JSEB, Ranchi dated 28.09.2012 (Annexure-6) with information about transfer of the petitioner by the aforesaid notification dated 28.12.2010. The petitioner thereafter submitted his joining to the General Manager (Personnel-cum-General Administration), Jharkhand Urja Vikas Nigam Ltd ('JUVNL') on 21.08.2017. However, by letter dated 03.01.2018 (Annexure-9), the petitioner's joining was refused on the ground that his services had been transferred to Jharkhand in the year 2010, but he did not submit his joining until 21.08.2017 and as such he remained absent for a period of six years and seven months. It is submitted that the petitioner retired on 28.02.2018 and he is entitled to his retiral benefits which have arbitrarily been withheld by the concerned authorities.

5. Learned counsel for the respondent Power Company at the outset raises a preliminary objection that the writ petition is not maintainable. It is submitted that the services of the petitioner had been transferred to Jharkhand as far back as in



the year 2010 itself along with five other persons. As such, no cause of action can be said to arise within the territorial jurisdiction of this Court in the matter of payment of retirement benefits of the petitioner.

Similarly, no relief can be claimed by the petitioner from the Power Company as his services had already been transferred in 2010 to Jharkhand, as stated above.

Moreover, the petitioner has also not offered any satisfactory explanation with regard to the long delay of more than six years in submitting his joining at Jharkhand in the year 2017, which has been rejected in view of the extant rules. The other five persons who were also covered under the notification No. 717 dated 28.12.2010 duly joined at their respective places of posting, whereas the petitioner chose not to do so. As such, he is not entitled to any relief from this Court in view of his own delay and laches.

6. Learned counsel for the respondent nos. 7 to 9 appears and states that no relief has been sought against these respondents in the writ petition. It is relevant to note that the order refusing to accept the petitioner's joining was passed in the year 2018, but the same does not appear to have been made subject matter of challenge by the petitioner.

7. Having heard the parties and on consideration of the materials on record, this Court finds merit in the submission of



the Respondent Power Company. The services of the petitioner having been transferred to Jharkhand in 2010. he was required to submit his joining at Jharkhand, but no satisfactory reason has been assigned for his long absence till 2017. This Court finds it difficult to accept the plea of the petitioner that the order of transfer was not communicated to him and he kept waiting for posting for more than six years, while five other persons transferred by the common order had duly joined at their respective new places of posting. The petitioner has not shown that the order dated 03.01.2018 passed by the General Manager (Personnel-cum-General Administration), 'JUVNL' has been challenged by him. It is further relevant to note that the petitioner has approached this Court by filing the present writ petition on 12.10.2018 well after the aforesaid letter refusing his joining was issued on 03.01.2018 (Annexure-9) and also well after his retirement on 28.02.2018. This Court is accordingly not inclined to interfere in the matter.

8. The writ petition stands dismissed.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	26.08.2020
Transmission Date	-

