

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11085 of 2018

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Deothan Ram S/o Late Munna Ram R/o Patratu Thermal Power Station, Staff
Colony, P.O. and P.S. Patratu, District- Ramgarh Petitioner/s

Versus

1. The Chairman Cum Managing Director, Bihar State Power Holding Company Ltd. Vidyut Bhawan, Patna-800021
2. The Managing Director, Bihar State Power Generation Company Ltd., Vidyut Bhawan, Bailey Road, Patna
3. The General Manager-cum-Chief Engineer, Barauni Thermal Power Station, At and P.O. Barauni Thermal Power Station, Dist-Begusarai
4. The General Manager (Finance), Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ramnandan Kr. Sinha
For the Respondent/s	:	Mr.Vinay Kirti Singh
	:	Mr. Vinay Kr. Verma

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-09-2020

1. The present writ petition has been filed to pay to the petitioner, the pension from the date of retirement i.e. w.e.f. 01.10.2001 till 16.07.2010, as per the order dated 16.07.2010, wherein though it has been stated that the reduced pension to the extent of 20%, is payable with effect from 08.07.2010, but there is no mention about payment of arrears of pension @ 80% from the date of retirement till 08.07.2010.

2. The brief facts of the case, according to the petitioner herein are that the petitioner is a Class-IV employee and while he was posted at Patratu Thermal Power Station, he is alleged to have illegally constructed a house on land



admeasuring 590.47 Sq.ft. apart from being in possession of the residential quarter, whereupon a departmental proceeding was initiated vide order dated 22.09.2000, however in the meantime the petitioner had superannuated on 01.10.2001 and subsequently, the disciplinary authority had passed the order of punishment dated 22.09.2000, declaring the pension amount to be NIL. The petitioner is stated to have filed an appeal against the said order of punishment and the appellate authority vide order dated 04.06.2003 had re-considered the quantum of punishment and modified the order of punishment by directing that the pension of the petitioner shall stand reduced by 20% with effect from vacation of the quarter in question as also vacation of the land illegally encroached by the petitioner. The petitioner is stated to have vacated the land/ quarter in question, information whereof was sent by the General Manager, P.T.P.S. vide letter dated 22.06.2010 and 08.07.2010, whereafter an office order dated 16.07.2010 was issued by the respondents directing for payment of 80% pension w.e.f. 08.07.2010.

3. It appears that the petitioner had filed a writ petition bearing W.P. (S) no. 6709 of 2014 before the Hon'ble Jharkhand High Court *inter alia* praying therein to direct the respondents to pay the death-cum-retiral dues of the petitioner



i.e. arrears of pension w.e.f. 30.09.2001 to 08.07.2010. The said writ petition was disposed off by the Hon'ble Jharkhand High Court by an order dated 27.01.2016, whereby and whereunder the petitioner was granted liberty to file his representation before the respondent-authorities within a period of two weeks and the respondents were directed to consider the same and pass a reasoned and a speaking order within a period of eight weeks of filing of such representation. It appears that in pursuance to the aforesaid order dated 27.01.2016, a representation was submitted by the petitioner and thereafter an order dated 13.05.2016 (Annexure 2 to the writ petition) was passed by the competent authority.

4. The learned counsel for the petitioner has submitted that there has been no reference of any financial loss caused to the respondents in the order dated 13.05.2016, hence the petitioner is entitled to full pension from the date of superannuation till 08.07.2010.

5. *Per contra*, the learned Senior counsel for the respondents has submitted that the present writ petition is an abuse of process of the Court. It has been further submitted that a departmental proceeding was initiated against the petitioner in the year 2000 on the allegation of being an unauthorized



occupant of the departmental quarters no. DIW-3 & 4 at Barauni Thermal Power Station as also having unauthorizedly encroached land ad-measuring 590.47 Sq.ft. at Barauni Thermal Power Station, apart from having defied the orders of the Board regarding his transfer from P.T.P.S. to B.T.P.S. After completion of the inquiry, charges were found to be proved as against the petitioner herein and a second show cause notice was issued to the petitioner vide office order dated 13.04.2002 and after carefully considering the reply and upon application of mind, the erstwhile Board had passed an order of punishment dated 22.06.2002, whereby and whereunder 100% pension of the petitioner herein was forfeited. The petitioner had challenged the said order dated 22.06.2002 by filing an appeal which was disposed off by modifying the quantum of penalty and it was directed that instead of forfeiting 100% pension of the petitioner, only 20% amount be deducted from the total amount of pension of the petitioner herein from the date of receipt of information/ confirmation by the P.T.P.S. authorities regarding vacation of the land and quarters at P.T.P.S. which had been illegally occupied by the petitioner. The information regarding vacation of the quarter/ land was received from P.T.P.S. vide letters dated 24.02.2010 and 08.07.2010,



whereafter order was issued for payment of 80% admissible pension w.e.f. 08.07.2010. It is thus submitted that it is apparent that the petitioner had not only illegally occupied land at P.T.P.S. but had also been an illegal occupant of the departmental quarter from 30.09.2001 to the month of June, 2010, which apparently depicts the misconduct of the petitioner herein.

The learned Senior counsel for the respondents has further submitted that illegal occupation of the departmental quarter by the petitioner as also illegal encroachment of the land in the premises of P.T.P.S., has definitely resulted in financial loss to the Board and the said act is covered by Rule 29 (B)(C) of the Certified Standing Order of the erstwhile B.S.E.B. which deals with theft, fraud or dishonesty having been indulged in with regard to the property of the Board or its business and the same has been regarded to be a misconduct.

6. I have heard the learned counsel for the parties and gone through the materials on record as also considered the submissions made by the learned counsel for the parties. It is apparent from the records that the petitioner has never challenged either the order of punishment dated 22.06.2002, whereby and whereunder the pension of the petitioner was declared to be nil or the appellate order dated 04.06.2003,



whereby and whereunder the aforesaid order of punishment of forfeiture of 100% pension of the petitioner herein was modified and instead, it was directed that the pension of the petitioner shall stand reduced by 20% with effect from the date, the petitioner vacates the land/ departmental quarter and its information is given by the Patratu Thermal Power Station officials. It is also apparent that the information regarding vacation of land/ quarter by the petitioner herein was given by the P.T.P.S. officials vide letters dated 22.06.2010 and 08.07.2010, whereafter the respondents had immediately issued the order dated 16.07.2010 regarding payment of 80% pension to the petitioner w.e.f. 08.07.2010. This Court finds that admittedly, the petitioner had been in illegal possession of the departmental quarter as also had encroached the land of Patratu Thermal Power Station and immediately, after vacation of the same, he has been paid 80% pension w.e.f. 08.07.2010 which this Court finds to be very reasonable in the given facts and circumstances of this case.

This Court further finds that since the petitioner is not aggrieved either with the punishment order dated 22.06.2002 or the appellate order dated 04.06.2003 and the same has also not been ever challenged, the petitioner is not



entitled to any relief in the present proceedings. Infact, this Court is of the view that the petitioner has been let-off lightly considering the gravity of the offence committed by him. It is further clear that the pension of the petitioner was reduced to zero, in view of the order of punishment passed vide office order no. 2286 dated 22.06.2002, which, however stood modified by the appellate order dated 04.06.2003, whereby and whereunder the petitioner was made entitled to receive 80% pension amount with effect from the date, the respondent authorities received information from P.T.P.S. regarding vacation of land/ quarter of the petitioner and the said information was received by the respondents from P.T.P.S. vide letters dated 22.06.2010 and 08.07.2010 and immediately thereupon, the petitioner is being paid pension @ 80% with effect from 08.07.2010, hence there is no infirmity, whatsoever, in the action of the respondents. Thus, this Court finds that the present writ petition is bereft of any merit, hence is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.10.2020
Transmission Date	NA

