

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7075 of 2020

Lalit Mohan Pathak, Son of Ram Jhalak Pathak, Resident of village Kaithwali, P.S.- Narahi, District Balia (Uttar Pradesh), at present Flat No. 20/B Sita Kunj Apartment, Ved Nagar, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The Bihar State Power (Holding) Co. Ltd. Having its office at Vidyut Office at Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna, through its Chairman cum Managing Director.
2. The Chairman cum Managing Director Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna.
3. The South Bihar Power Distribution Co. Ltd. Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna through its Managing Director.
4. The Director (Administration) Bihar State Power (Holding) Co. Ltd. cum Chairman, D.P.C. Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna.
5. The General Manager (HR Adm.) Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna.
6. The Deputy General Manager (HR Adm.) Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna.
7. The Finance Officer South Bihar Power (Holding) Co. Ltd., The Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S.- Kotwali, District- Patna.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 28-01-2021 Heard learned counsel for the petitioner and the respondents.

The petitioner superannuated in December, 2019.

The grievance of the petitioner is that he has been paid only 90% of pension and leave encashment, gratuity and Group Saving Scheme have not been paid to him.



Mr. Vinay Kirti Singh, learned counsel for the respondent Power Holding Company submits that the petitioner has been paid provisional pension of 90% in view of the pendency of the criminal case, bearing Special Case No. 1 of 2002, arising out of Vigilance Case No. 2 of 2002.

Mr. Vinay Kirti Singh further submits that the petitioner has been paid Rs. 2,31,244/- towards Group Saving Scheme. So far as payment of gratuity and leave encashment is concerned, the same is not payable to the petitioner, as the criminal (Vigilance) case is pending against him. Mr. Singh further submits that in view of amended provisions of the Bihar Pension Rules, which is applicable to the employees of the Power Holding Company also, the respondents are justified in withholding 10% pension and other pensionary benefits. He further submits that the respondents are contemplating for taking action in terms of Annexure- A to the counter affidavit and, as such, the grievance of the petitioner that he has not been paid 100% pension, leave encashment and gratuity is totally misconceived.

On consideration of rival submissions of the parties, the Court is of the view that enabling provision is not a ground to deny the benefit of pension. Annexure- A enables the



respondents to take appropriate action, but in absence of the decision at the level of the respondents, post retiral benefits of the petitioner cannot be denied.

Accordingly, the writ application is disposed of with a direction to the respondents to take appropriate decision with regard to the claim of the petitioner for payment of balance pension, gratuity, leave encashment, if not already paid, within a maximum period of sixty days from the date of receipt/production of a copy of this order and ensure payment of the post retiral dues within the aforesaid time frame of sixty days.

(Anil Kumar Upadhyay, J)

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