

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1967 of 2017

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Ramesh Chandra Sinha Son of late Kedar Nath Sahay, Resident of Mohalla Santar, Near Kali Mandir, P.S. Lakhisarai, District- Lakhisarai.

... .. Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation through its Managing Director, BSFC Khadhya Bhawan, R Block, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation, Khadya Bhawan R Block, Patna.
3. The Chief of Finance , Bihar State Food and Civil Supplies Corporation, Khadya Bhawan R Block, Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation, Lakhisarai.
5. The Employee Provident Fund Organization through its Regional Commission Adampur Chauk, Bhagalpur.
6. The Regional Commissioner, Employees Provident Fund Organization, Adampur Chowk, Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Deepak Sahay Jamuar, Advocate
For the Respondent BSFC:		Mr. Shailendra Kumar Singh, Advocate
For the Respondent EPFO:		Mr. Prashant Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

14 29-06-2021 While working as Assistant Godown Manager-cum-Paddy Purchase Centre Incharge at Sheikhpura Godown under Bihar State Food Corporation Limited (hereinafter to be referred to as ‘the BSFC’), the petitioner retired on attaining the age of superannuation with effect from 30.06.2013.

He has filed the present writ application seeking direction to the respondents to ensure payment of his retiral benefits against pension, gratuity, cash equivalent to unutilized earned leave, group insurance, provident fund and arrears of



salary.

A counter affidavit has been filed on behalf of the respondents including BSFC. It has been asserted in the counter affidavit that the petitioner was found to have misappropriate huge quantity of paddy. Paragraph 6 of the counter affidavit reads thus : -

“6. That in discharge of his duties the petitioner purchased 48974 quintals of paddy in KMS 2011-12. Out of this purchased quantity the petitioner could supply only 48053.6 quintals of paddy against SIOs to the rice millers and to base godowns and the remaining 920.40 quintals of paddy was misappropriated whose cost was calculated to be Rs.11,73,600.00 which was defalcated by the petitioner in his personal interest. Again the petitioner purchased 32595.2 quintals of paddy in KMS 2012-13 and out of this the petitioner could supply only 31578.4 quintals of paddy against SIOs and the remaining 1016.80 quintals of paddy was misappropriated whose cost was calculated to be Rs.14,75,301.00 which was again defalcated by the petitioner. Thus, a total Rs.11,73,600.00+Rs.14,75,301.00= Rs.26,48,901/- is recoverable from the petitioner added with the interest thereon. After having committed such a serious offence the petitioner retired from the service and with



ulterior motive did not transferred his charge to the next officer. The petitioner, as being custodian, also stole the second part of his service book with mala fide intentions.”

It has further been alleged that the District Manager, Sheikhpura, had written several letters asking the petitioner to hand over the charge of the godown, but he did not comply. It has further been asserted that five years after the petitioner’s retirement, in 2018, criminal cases have been registered against the petitioner for misappropriation of public property.

It has also been stated that certificate case has been registered for recovery of the amount which the petitioner is said to have defalcated.

It is, however, admitted fact that the petitioner has been found to be entitled to receive payment of a sum of Rs.3,50,000/- as against gratuity, Rs.6,72,000/- as against arrears of salary and Rs.2,70,593/- as against cash equivalent to unutilized earned leave. For payment of pension and provident fund amount, the petitioner, it is stated, is required to submit statutory Form 10-D for Employees’ Pension Scheme and Form 19 under the Employees’ Provident Fund Scheme.

Mr. Shailendra Kumar Singh, learned counsel appearing on behalf of the BSFC has submitted that the



Corporation has withheld payment of amount of gratuity, arrears of salary and cash equivalent to unutilized earned leave because of the petitioner's conduct of having misappropriated huge amount of the BSFC property.

There is nothing on record to demonstrate that the petitioner was ever departmentally proceeded against for the alleged misconduct. Learned counsel for the respondents have miserably failed to bring to the notice of the Court any provision under which the Corporation could have withheld payment of gratuity, arrears of salary and cash equivalent to unutilized earned leave. It has been, however, stated on behalf of the Corporation that once the petitioner submits the duly filled in statutory forms, the Corporation shall take steps to send the papers to the Employees Provident Fund Organization for payment of pension and provident fund amount.

Considering the undisputed facts and circumstances of the case, this application is disposed of with a direction to the Managing Director, BSFC, to ensure payment of admitted dues as noted above against gratuity, arrears of salary and cash equivalent to unutilized earned leave within a period of one month from the date of receipt/production of a copy of this order.



Learned counsel for the petitioner has submitted that the petitioner shall submit duly filled in statutory forms, Form 10-D for Employees' Pension Scheme and Form 19 under the Employees' Provident Fund Scheme, within two weeks. Let it be done. The Corporation shall be obliged to take immediate steps accordingly once the petitioner submits the said statutory forms. The respondents No.5 and 6 shall thereafter be obliged to ensure that the petitioner is paid his admissible dues against pension and provident fund within a period of two months from the date of receipt of duly filled in statutory forms as noted above.

This application is allowed with the directions and observation as noted above.

(Chakradhari Sharan Singh, J)

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