IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14290 of 2012

Manik Vedsen, son of Late Rajeshwar Prasad Sinha, presently residing at 3, Shantiniketan, East Boring Canal Road, Patna, Police Station Budha Colony, Patna

... ... Petitioner/s

Versus

1. The Bihar State Financial Corporation, Fraser Road, Patna, through its Managing Direction.
2. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna.
3. Manager (EPF), Bihar State Financial Corporation, Fraser Road, Patna

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amresh Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Raju Giri, Advocate
		Mr. Santosh Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-12-2022

Heard Mr. Amaresh Kumar Sinha, learned counsel for the petitioner and Mr. Raju Giri, learned counsel for the Bihar State Financial Corporation (hereinafter referred to as the "Corporation").

2. The writ petition had been filed originally for the following reliefs:

> *(a) for payment of statutory/accrued interest in the EPF account of the petitioner for the period of delay in payment of EPF amount lying in the account of the petitioner and to furnish details of the accounts as per provisions contained in EPF Regulation;*
>
> *(b) for payment of interest on gratuity amount for the period of delay in making actual payment and for providing details of*

calculation, and

(c) *for refund of Rs.35,700/- with interest which was erroneously adjusted against alleged dues of the Corporation from P.F. amount as stated in the letter dated 25.03.2008 of the respondent."*

3. During the pendency of the writ petition, the due payments of the petitioner have been paid to him. However, learned counsel for the petitioner has raised objection with regard to payments made under two heads. Firstly, that Earned Leave has been shown to be nil, which according him is erroneous and secondly, the payment of interest on EPF has been only until till January, 2008 though actual payment has been made only in the year 2011. According to him, interest should have calculated till that date.

4. On the said two points, learned counsel for the Corporation submits that the encashment of Earned Leave is dependent on the amount of Earned Leave existing in the account of the person concerned. In the present case, it was submitted that whatever leave he had earned was adjusted for his absence for various periods to maintain continuity in service of the petitioner. Further, with regard to interest on EPF, learned counsel drew the attention of the Court to the amendment made in the EPF Regulation of the Board dated 01.05.2007 by which for the first time provision was made to pay interest of PF

accumulation of a member who ceases to be a member of the fund due to death, retirement or otherwise, which was made payable only till the date of final payment of the member's subscription and Corporation's contribution. Thus, it was contended that since the petitioner's contribution/ Corporation's contribution could not have continued beyond 2004, which is the admitted position, the Corporation having paid interest till 08.01.2008, the petitioner cannot have any grievance on this account.

5. Learned counsel for the petitioner drew the attention of the Court to a judgment of a co-ordinate Bench in CWJC No. 20387 of 2012 (**Brij Bihari Singh Vs. The State of Bihar**) dated 22.12.2016, where under similar circumstances, the interest payable on the EPF was held to be payable till the date of actual payment.

6. Having considered the submissions of learned counsel for the parties, as far as the encashment of unutilized Earned Leave is concerned, there being no counter chart brought on record by the petitioner to show that he still had sufficient leave for encashment and the Corporation, on the other hand, having disclosed the reason and also the details as to how no payment is due on the head of encashment of unutilized Earned

Leave, the Court is unable to interfere in the matter.

7. As far as interest of EPF is concerned, the Court finds that the judgment of the co-ordinate Bench in the case of **Brij Bihari Singh** (*supra*) has been passed without noticing the fact that a formal amendment has been brought in the Bihar State Financial Corporation Employees Provident Fund Regulation, 1955, relating to payment of interest which was duly approved by the State Government and the SIDBI and the same not providing for payment of interest beyond the final payment of member's subscription and the Corporation's contribution, the Court is unable to follow the said judgment on this issue as this vital aspect was not considered by the Court in the said case. As long as the statutory amendment is in place, without differentiating or striking down the provisions therein, this Court would not pass an order in violation of such provision.

8. For reasons aforesaid, the Court finds that the writ petition has served its purpose. Accordingly, the same stands disposed of.

9. However, if the petitioner has any grievance with regard to non-payment of his dues under the head of unutilized Earned Leave, it shall be open to him to file a

detailed representation enclosing the chart as to how he has calculated the number of days for which he is entitled and the number of days which upon adjustment remain to be paid. If the same is filed, the Court would expect the competent authority of the Corporation to look into the same and after verification from the records pass a reasoned order thereupon.

(Ahsanuddin Amanullah, J)

J. Alam/-

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