

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.656 of 2023

Ashok Kumar Son of Late Ramji Lal Resident of 274 A/1 Katihar Land
Ashiani, Digha Road, Sumanpura, P.O. B.V. College, P.S. Rajeev Nagar,
District-Patna.

... .. Petitioner/s

Versus

1. Bihar State Power Holding Company Limited through its Managing
Director, vidut Bhawan, Bailey Road, Patna.
2. Managing Director, North Bihar Power Distribution Company Limited,
Vidut Bhawan, Bailey Road, Patna.
3. Under Secretary, North Bihar Power Distribution Company Limited, Vidut
Bhawan, Patna.
4. Executive Engineer, Transformer Repair Workshop, Forbisganj, Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Hriday Prasad, Advocate Ms. Maruti Kumari, Advocate
For the Respondent/s	:	Mr. Kunal Tiwary, A.S.C.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 18-05-2023 Heard the parties.

This application has been preferred for setting aside
the orders dated 15.11.2022 and 19.12.2022 passed by the
Under Secretary, North Bihar Power Distribution Company
Limited, Patna by which the prayer for payment of unutilized
leave salary has been rejected. The further prayer is for a
direction to the respondents to pay the leave salary and all
consequential benefits.

It has been contended by the learned counsel for the



petitioner that the pendency of the criminal proceeding cannot be a ground to deny his rightful dues.

He has provided a copy of the order of the Hon'ble Apex Court in the case of *State of Jharkhand and others vs. Jitendra Kumar Srivastava and another* (Civil Appeal No. 6770 of 2013) disposed of on 14.8.2013 to submit that without any administrative instructions, the pension or gratuity or leave encashment cannot be withheld.

Mr. Kunal Tiwary, learned counsel for the respondents has drawn attention of this Court to the Standing Order No. 850 dated 17.12.2004 issued by North Bihar Power Distribution Company Limited, Patna under the signature of its Secretary wherein it was recorded as follows:-

BIHAR STATE ELECTRICITY BOARD PATNA

(DEPARTMENT OF GENERAL ADMINISTRATION)

(STANDING ORDER NO. I/Pen- EEE-4244/97 (part)/850 Dated 17.12.2004

"The issue with regard to payment of cash in lieu of unavailed period of earned leave and commutation of pension to the employees/officers of the Board committed irregularities and facing charges till the date of superannuation was reviewed by the Board in light of the observation of the



Hon'ble High Court in some of the court cases faced by the Board and after due consideration, it has, ultimately been decided that only in cases of pending departmental criminal proceedings against any employee/officer of the Board, payment of leave encashment and commutaion of pension shall be withheld otherwise not.

Board's standing order no. 784 dated 21.08.1997 read with standing order no. 836 dated 01.01.2001 is hereby modified to the above extent."

He submits that unlike in the case of Hon'ble Apex Court, in the present case, the standing instruction is there and thus the judgment of the Hon'ble Apex Court which the learned counsel for the petitioner has provided will not come to his rescue. He further submits that there is a criminal proceeding pending against the petitioner vide Vigilance Case No. 02 of 2002 dated 16.01.2022.

This Court finds force in the submission put forward by the learned counsel for the respondents. When there is standing instruction of the erstwhile Bihar Electricity Board as



recorded above vide standing order no. 850 dated 17.12.2004, in that background, the petitioner cannot claim relief for the present till the disposal of the criminal proceeding vide **Vigilance Case No. 02 of 2002** dated 16.01.2022. As such the order of the Hon'ble Apex Court, as stated above, will not be applicable in the case of the petitioner.

The petition lacks merit and is accordingly stands dismissed.

(Rajiv Roy, J)

Ravi/Kiran

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