IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2718 of 2020

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Haridwar Prasad Singh, S/o Ram Sakal Singh, Resident of Yadav Nagar, P.S. Bhagwanpur, Muzaffarpur.

... ... Petitioner/s

Versus

1. The Chairman cum Managing Director, Food Corporation of India, 16-20 Barakhambha Lane, New Delhi-110001.
2. The Executive Director, East, Food Corporation of India, Zonal Office, 10 A, Middleton Road, Kolkata-700071.
3. The Senior Regional Manager, Food Corporation of India, Ehibition road, Patna-1.
4. The Area Manager, Food Corporation of India, Motihari.
5. The Manager (CPF), Food Corporation of India, 10 A Middleton Road, Kolkata-700071.
6. The District Manager, Food Corporation of India, Chhota Bariarpur, Hawai Adda Chauk, Motihari-845401.
7. The District Manager, Food Corporation of India, Food Storage Depot, Brahmpura, Muzaffarpur.
8. The Central Provident Fund Commissioner, Employees Provident Fund Organisation, Bhavisya Nidhi Bhawan, 14 Bhikaji Cama Place, New Delhi.
9. The Assistant Commissioner Provident Fund (Accounts), Employees Provident Fund Organisation, Bhavisya Nidhi Bhawan, 14 Bhikaji Cama Place, New Delhi.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Shashi Bhushan Singh, Adv.

For Respondent/s 1 to 7 : Mr. Prabhakar Tekriwal, Adv.
For respondent nos. 8 & 9: Mr. Madhav Krishna, Adv.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

10 20-06-2023 Heard Mr. Shashi Bhushan Singh, learned counsel appearing on behalf of the petitioner, Mr. Prabhakar Tekriwal, learned counsel appearing on behalf of respondent nos. 1 to 7 and Mr. Madhav Krishna, learned counsel appearing on behalf

of respondent nos. 8 and 9.

2. The petitioner has sought following reliefs in the writ petition under consideration:-

> "(i) For issuance of an appropriate writ in the nature of Certiorari for quashing the part of the letter contained in letter No. 346 dated 9.9.2019 in which it has been mentioned that contribution of certain period has not been deposited under pension scheme with employees' provident fund organisation and it has also been directed to deposit the said amount amounting Rs. 2,74,656/-so that the pension could be made whereas the fact is that petitioner has been received his salary since the date of appointment after deduction of contribution under pension scheme and it is upon respondent (Food Corporation of India) to send the said contribution to the employees' provident fund.
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> (ii) For issuance of an appropriate writ in the nature of Mandamus, Commanding and directing the respondent authorities to pay the pension with penal interest to the petitioner who has not been paid pension even after retirement on 30.6.2016 on account of non deposit of contribution under pension scheme with Employees' Provident Fund Organisation by the respondent authorities of Food Corporation of India and further a direction to the respondent no.6 to deposit all the contribution amount deducted from the

salary of the petitioner under pension scheme with employees' provident fund organisation.

(iii) For issuance of any other appropriate writ/writs, order/ orders, direction/ directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner has not been paid pension due to alleged non deposit of contribution amount under the pension Scheme with Employees Provident Fund Organization. The petitioner has alleged that the respondent F.C.I. even after having deducting the contribution amount, from the salary of the petitioner, has committed such illegal act. At the outset, learned counsel appearing on behalf of the petitioner submitted that the F.C.I. has failed to perform his statutory duty.

4. The facts of the case in brief is that the petitioner was appointed on the post of Watchman on 15.12.1978 in the District Office, F.C.I., Chhota Bariarpur, Motihari. Subsequently, transferred to Mokama. The petitioner was promoted to class-III post in 1991 and thereafter on the post of Assistant Grade-II in 2008 and posted in the Office of District Office, F.C.I., Motihari. The petitioner had retired on 30.06.2016. As per instruction of the Area Manager, Motihari

the petitioner had submitted duly filled pension paper before him on 04.07.2015 bearing E.P.S.-95 Form. The Area Manager, Motihari has forwarded the same to the Executive Director, F.C.I., Zonal Office, F.C.I., Kolkata. After the same, certain internal communication was made with Manager, C.P.F., F.C.I., with the Zonal Officer, Kolkata and Divisional Manager, Motihari, who concluded that the pension of the petitioner cannot be processed due to non-contribution of certain period and requested to deposit Rs. 2,74,656/- by 15.09.2019, so that the pension can be given to the petitioner. In spite of such internal communication and the information being gathered by the respective Officer of the F.C.I., the Divisional Manager, F.C.I. issue letter no. 346, dated 09.09.2019, by which the petitioner was directed to deposit Rs. 2,74,656. The petitioner is aggrieved by the said communication in the present writ petition.

5. Learned counsel appearing on behalf of the petitioner submits that during pendency of the writ petition, a counter affidavit has been filed on behalf of respondent nos. 1 to 7, they have admitted that no contribution on the part of the employee has been made for certain periods, but due to mismatch of month and after taking effort, it could be found that

for some months during 2000-2001 to 2013-2014 certain amount has been contributed in the C.P.F. account of the petitioner. It is admitted in paragraph no. 7 of the counter affidavit that the total amount of Rs. 1,72,405/- (one lakh seventy two thousand four hundred five) as per the record available with the Zonal Office have been paid to the petitioner along with interest. The petitioner is aggrieved by the calculation made in chart annexed as Annexure-A to the counter affidavit and pleading made particularly in paragraph no. 7 of the counter affidavit. It is further submitted that the pensionary dues mentioned in Annexure-A has not been credited into the E.P.F. account of the petitioner till date.

6. Learned counsel further submitted that the contribution part of the employee was not made at the relevant point of time and in paragraph no. 7 it is admitted that only an amount of Rs. 1,72,405/- has been credited into the account. It is not supported by evidence as such vague and misleading statement has been given in paragraph-7 of the counter affidavit, the same fact cannot be accepted.

7. Per contra, learned counsel appearing on behalf of the respondent nos. 1 to 7 has submitted that respondents have given a detailed calculation chart which is annexed as

Annexure-A to the counter affidavit. The said chart reflects the details of contribution made from time to time by respondents into the E.P.F. account of the petitioner, which was required to be deposited in the account of the petitioner total amounting Rs. 1,72,405/-. The same has been now credited into the C.P.F account of the petitioner along with interest without delay.

8. Considering the rival submissions made on behalf of the parties as well as the fact that the petitioner has disputed the fact that the entire amount of contribution, which was required to be paid in the E.P.F. account of the petitioner on monthly basis. However, statements have been made in the counter affidavit that the amount of Rs. 1,72,405/- was incorrectly paid to the petitioner at the time of his retirement. The petitioner has not given the details of pension contribution which was required to be paid by the employeer. However, in paragraph-16 it has been illustrated by way of example the manner in which the amount provides for making of contribution. Though, the petitioner has annexed the details of contribution made, which is annexed as Annexure-10 to the writ petition.

9. Considering the record as well as the facts, this Court leaves the calculation the contribution made in the case of

the petitioner, it would be in the interest of justice that the parties are directed to appear before the Accountant General, Bihar for understanding the method of calculation, who is well versed with accounting particularly with the case in hand, where the petitioner has deposited the calculated amount made by the respondent nos. 1 to 7 in his bank account, with respect to the contribution of E.P.F. amount in the account of the petitioner.

10. The General Manager, F.C.I., Patna is directed to produce the entire record of the case and ensure his presence before the Accountant General, Bihar to explain the case of his Organization and the petitioner must also make himself available before the Accountant General in person or through his representative.

11. The respective parties are directed to appear before the Accountant General, Bihar on 27.06.2023 at 4:30 P.M., as jointly agreed by the parties.

12. The Accountant General, Bihar must ensure that correct calculation is made and same be communicated to the petitioner, Executive Director, Zonal Office, F.C.I., Kolkata as well as the General Manager, F.C.I., Bihar.

13. The Accountant General, Bihar must ensure that such communication must be made within a period of three

weeks from the date of appearance mentioned in this order.

14. This writ petition is accordingly disposed of.

(Purnendu Singh, J)

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