

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4323 of 2017

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Anil Kumar Srivastava son of Late Bishwanand Srivastava, Resident of
Village- Rasalpur, P.S.- Naya Gaon, District- Saran.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar Food Supply and Civil Supplies Corporation
Limited Khadh Bhawan, Bihar, Patna.
2. The District Manager, Bihar State Food Corporation, Khagaria.
3. Employees Provident Fund Organization, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aryan Singh, Advocate.
For the Respondent No.3:	:	Mr. Prashant Sinha, Advocate.
For the BSFC	:	Mr. Nirmal Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

25 21-04-2023 Heard Mr. Aryan Singh, learned counsel appearing on
behalf of the petitioner; Mr. Prashant Sinha, learned counsel for
the respondent no.3 and Mr. Nirmal Kumar, learned counsel for
the Bihar State Food Corporation.

2. Mr. Nirmal Kumar, learned counsel appearing on
behalf of the Bihar State Food Corporation informs that he has
made a telephonic communication with the Managing Director,
Bihar Food Supply and Civil Supplies Corporation limited who
has informed him that he will seriously look into the matter and
do all needful to make payment of E.P.F. amount due to the
petitioner. The only problem which the Managing Director has
faced is that the employee code (member ID code) of the
petitioner is not available with him. As such learned counsel



seeks some time to verify as to from which regional office petitioner's employee provident fund (E.P.F.) amount to be credited in his account.

3. Considering the aforesaid fact, this Court appreciates the keen interest taken by the Regional Provident Fund Commissioner, Patna who has taken the things seriously and also put his effort to talk with the Managing Director who has informed him that since the employee ID (member ID code) of the petitioner is not available, the entire amount of E.P.F. due to the petitioner will be paid and credited in his account after filing of the claim application which has to be certified by the employer in terms of the Employees Provident Fund Scheme, 1952 which has been made public in exercise of power vested under Section 5 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. Clause 5 of the said Scheme is reproduced hereunder:

“(5) (a) Every employer shall, at the time when a member of the Fund leaves the service, be required to get the claim application, for payment of provident fund in cases specified in clauses (a) to (dd) of sub-paragraph (1), of paragraph 69, duly filled in and attested, and to forward the said application [within five days of its receipt] to the Commissioner or any other officer authorised by him in this behalf.

(b) Every employer shall, at the time when a member of the Fund leaves the service, be required to get the claim application, for payment of provident fund in cases specified in clause (e) of subparagraph (1), and in subparagraph (2) of paragraph 69, duly filled in and attested,



and to give the said application to the member, for submission, on completion of the period specified in subparagraph (2) of paragraph 69, [provided the member continues to remain unemployed in a factory or other establishment to which the Act applies] either through post or in person with proper identification, to the Commissioner or any other officer authorized by him in this behalf.

(c) Every employer shall, on the death of the member and on receipt of an application for receiving the amount standing to the credit of such member, forward forthwith [but not later than five days of its receipt] the said application to the Commissioner or any other officer authorised by him in this behalf.

(d) If the applicant is unable to send the claim application through the employer or duly attested by him, for any reason whatsoever, he may forward it to the Commissioner or any other officer authorised by him in this behalf, and wherever necessary, the Commissioner or any other officer authorised by him in this behalf may forward such application to the employer and the employer shall be required, to return it within five days of its receipt.

(e) The payment may be made, in the option of the person to whom payment is to be made, (i) by postal money order, or (ii) by deposit in the payee's bank account in any scheduled bank or any co-operative bank (including the urban co-operative banks) or any post office or (iii) by deposit in the payee's name the whole or part of the amount in the form of annuity term deposits scheme in any Nationalized Bank, or (iv) through the employer.]

[Provided that the provident fund amount payable by postal money order shall be to the extent of maximum Rs.2000. Any payment of benefit above Rs.2000 under the scheme shall be remitted through cheque only. Where the amount payable by postal money order exceeds Rs.500/- it shall be remitted at the cost of the payee.]”

4. In such circumstances, the employer of the petitioner must ensure that he obtains dully filled up claim application form from the petitioner and after certifying the same, he must ensure that the same is sent to the Regional Office having jurisdiction within the period prescribed i.e. 5



days, as already much time has been taken for such formalities.

If the order is not carried out forthwith, the petitioner must approach this Court for initiating proceeding of contempt against the concerned officer of the State.

5. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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