

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3640 of 2024

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Shailendra Kumar Sharma, Son of Late Devendra Rai Sharma, Resident of
Village-Dighara, Police Station-Pusa, District-Samastipur.

... .. Petitioner/s

Versus

1. The Bihar State Power (Holding) Company Ltd. through its Chairman-Cum-Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. The Managing Director, Bihar State Power Transmission Company Ltd., Patna.
3. The Regional Provident oFund Commissioner, Patna.
4. The Administrator, Contributory Provident oFund Trust, Vidyut Bhawan, Bailey Road, Patna.
5. The Administrator, Contributory Provident Fund Trust, Transmission Circle, New Punaichak, Patna.
6. The General Manager-Cum-Chief Engineer, Transmission Zone-3, New Punaichak, Patna.
7. The Electrical Superintending Engineer, Transmission Circle, New Punaichak, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Advocate Ms. Akanksha Malviya, Advocate Mr. Alexander Ashok, Advocate Mr. Akash Keshav, Advocate Dr. Shuchi Bharti, Advocate
For the Respondent/s	:	Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-10-2024 Heard Mr. D.K. Sinha, learned Senior Advocate duly

assisted by Ms. Akanksha Malviya, learned Advocate for the

petitioner and Mr. Ritesh Kumar, learned Advocate representing

the Bihar State Power Transmission Company Ltd., Patna.

2. The present writ petition has been filed in view of

the liberty granted by this Court vide order dated 14.12.2023



passed in Civil Review No. 449 of 2017. By filing the present writ petition, the petitioner seeks a direction upon the respondents to fix and pay the pension to the petitioner with effect from 01.12.2012 under the provisions of the Employees Pension Scheme, 1995 alongwith the interest @ 12% on the arrears of pension. The petitioner also sought a direction upon the respondents to ensure statutory interest @ 12% on account of delayed payment of Gratuity amount which was paid to him on 25.08.2014 to the tune of Rs. 3,50,000/- and further on 18.11.2016 to the tune of Rs. 6,50,000/-. However, the same was required to be paid soon after the retirement of the petitioner. The petitioner also sought a declaration that he is entitled to difference of Rs. 60,000/- as he has been paid only Rs. 1,12,720/- against the total sum of Rs. 1,72,720/- under the Group Saving Scheme.

3. It is the contention of the learned Senior Advocate that other similarly situated employees who were superannuated alongwith the petitioner, have been sanctioned and paid Rs. 1,72,720/- under the Group Saving Scheme whereas, the petitioner has been paid Rs. 1,12,720/- and thus, discrimination has been caused.

4. Learned Senior Advocate fairly contended that



substantive amount except the afore-noted, has already been paid to the petitioner and thus, the grievance of the petitioner is only confined to the afore-noted claims.

5. A counter affidavit has been filed on behalf of respondent no. 1, 2, 6 and 7.

6. Learned Advocate for the Bihar State Power Transmission Company Ltd. firstly contended that so far the claim of the petitioner for payment of pension is concerned, since the petitioner was a Member of Employees Provident Fund and hence, he was not entitled for regular pension as other employees. The final amount of Rs. 19,52,717/- under the EPF Scheme had already been paid to the petitioner soon after his retirement vide cheque no. 373536, dated 01.02.2013. Since the erstwhile Board has never accepted the Employees Pension Scheme, 1995, therefore, in any view of the matter, the petitioner's claim for sanction and payment of pension could not arise and accordingly, it was rejected.

7. It is also the contention of the learned Advocate for the respondent company that the petitioner has accepted the amount of EPF without any objection and after accepting the same, now the petitioner cannot turn around and ask for the pension; all the more when the Board has never opted for



Employees Pension Scheme.

8. So far the second claim of the petitioner with regard to difference of Rs. 60,000/- under the Group Saving Scheme is concerned, it is contended that none of the similarly situated employee of the Power Transmission Company, who superannuated with the petitioner, has been accorded any amount, exceeded to the tune of Rs. 1,12,720/-. The petitioner has been paid the admissible amount of Rs. 1,12,720/- on 19.03.2013 itself. The petitioner failed to bring on record the name of any of the employees, who are identically situated and has been allowed an amount to the tune of Rs. 1,72,720/-, under Group Saving Scheme.

9. So far the interest over the delayed payment under the head of gratuity is concerned, learned Advocate for the respondents thus contended that upon the superannuation of the petitioner, he has been paid an amount of Rs. 3,50,000/- vide cheque no. 457019, dated 25.08.2014. Thereafter, a decision has been taken by the Bihar State Power Transmission Company Ltd. to ensure payment of gratuity to the tune of Rs. 10,00,000/- in one go and thus, it was resolved that the remaining amount of Rs. 6,50,000/- shall be paid to the employees of the Power Transmission Company on the availability of the fund.



10. Learned Advocate for the respondent Company thus submitted that the moment the fund was made available, the remaining amount of Rs. 6,50,000/- under the head of Gratuity has also been paid through cheque no. 641349, dated 18.11.2016.

11. Adverting to the aforesaid facts, learned Advocate for the respondent thus contended that there is no delay and laches on the part of the respondent, Bihar State Power Transmission Company Ltd.. All the sincere efforts have been taken and necessary payments have been made soon after the retirement of the petitioner and/or as soon as the fund is made available to the company.

12. Having considered the submissions advanced on behalf of the respective parties and taking note of the averments made in the counter affidavit, this Court does not find any merit in the claim of the petitioner.

13. The writ petition stands dismissed.

(Harish Kumar, J)

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