IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17052 of 2021

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Jhamlal Son of Pankira Ram Resident of Village and P.O. - Agiaon, P.S. Sahar (Agiaon), District- Bhojpur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Bihar, Patna.
2. The Chief Engineer Irrigation Building Water Resources Department, Old Secretariat, Bihar, Patna.
3. The Additional Secretary, Water Resources Department, Bihar, Patna.
4. The Executive Engineer, Small Distribution Division No. 08,Water Resources Department Jamshedpur (Jharkhand).
5. The Treasury Officer, Secretariat Treasury Irrigation Building, Patna.
6. The Accountant General, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Navin Kumar Singh, Advocate
		Mr. Madhav Krishna, Advocate
For the Respondent/s	:	Mr. Akhileshwar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 13-11-2024

Heard the parties.

2. The petitioner was duly appointed as a Treasury Sarkar in the office of Water Resources Department Irrigation Building, Bihar, Patna way back on 12.01.1980. On being transferred to the State of Jharkhand in the year 1990, the petitioner submitted his joining there and had been discharging his duty; subsequently, his services had been returned to the State of Bihar on 03.04.2006. Thereupon, he again submitted his joining in the Water Resources Department, Bihar, Patna.

3. Having served a satisfactory service, the petitioner

finally superannuated on 31.10.2018. Despite his superannuation way back in the year 2018, the petitioner has not been accorded his rightful admissible retiral benefits and other dues, he approached before the authorities concerned, but his grievance has not been redressed. In the meantime, the respondent no. 3 came out with the Letter No. 1805 dated 06.07.2020, whereby and whereunder, the petitioner has been directed to pay a sum of Rs. 3,16,995/- against an electricity bill. The petitioner on being aggrieved, approached before this Court seeking quashing of the aforenoted Letter No. 1805 dated 06.07.2020 and also sought a direction to ensure payment of all the admissible pensionary benefits and other dues, apart from revision of the pay scale and the accrued benefit, thereof.

4. Learned Advocate for the petitioner while assailing the impugned order whereby the petitioner has been directed to pay a sum of Rs. 3,16,995/- against the electricity bill contended that during the service period, at no point of time, the petitioner has been informed with regard to the due electricity bill. However, after one year and nine months of the retirement, the respondent authorities came out with the impugned letter, that too without there being any electricity bill and assigning the stipulated period of electricity consumption, for which the

electricity bill remained due. It is also urged that once the relationship of the petitioner is severed from the department, no recovery can be made from the pensionary benefit of the petitioner, that too without there being any provision under the law in this regard.

5. On the other hand, learned Advocate for the State contended that the petitioner has been accorded provisional pension and gratuity amount to the tune of 90 % on account of the reason of breakage in service of the petitioner for the period of 12 years 04 months and 11 days. It is also contended that while the petitioner was posted in the State of Jharkhand, the petitioner has failed to deposit the due electricity bill. In this connection, the office of the Chief Engineer, Suwarnrekha Project at Chandilya Complex, Jamshedpur vide its Letter No. 118 dated 22.01.2020, has informed the water Resources Department, Bihar that a sum of Rs. 3,16,995/- is to be recovered from the writ petitioner against electricity charges due while he was posted there. In such premise, the petitioner has been requested to deposit the said amount, so that the process of payment of earned leave may be initiated.

6. This Court has anxiously heard the learned Advocate for the respective parties and also perused the

materials available on record. The counter affidavit is not specific to the point as to for which period, an amount of Rs. 3,16,995/- has been charged against the electricity consumption nor the copy of the bill has been brought on record. The respondent authorities are also silent as to what action has been taken against the petitioner with regard to the breakage of service, as occurred on different occasion. Admittedly, the petitioner was superannuated way back on 31.10.2018 and, till date, the issue with regard to the payment of electricity bill and the breakage of service has not been resolved and the petitioner has been deprived from his rightful retiral benefits and other dues. The petitioner was transferred to the State of Jharkhand in the year 1990 and his services was returned to the State of Bihar in the year 2006. Even for the moment it is accepted that due electricity charges bill was of the year 2006, can it be recovered after a delay of 14 years, when the services of the petitioner has already returned to the State of Bihar in the year 2006 and now he has also superannuated on 31.10.2018, itself from the State of Bihar. Law is well settled that even for a civil recovery claim, there is a time limit to take recourse of civil suit within three years, unless the delay is condoned by the competent Court. All the more, had there been any due amount recoverable from a government employees, the same must be settled before his retirement.

7. This Court also thinks it apt to encapsulate herein the relevant prescription of Electricity Act, 2003, especially Section 56(2), which is as follows:

> "56(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."

No doubt, that when the claim is in regard to arrears of house rents electricity charge etc, it shall be the duty of every retiring government servants to clear all Government dues before his retirement and in case it has not been paid, the same can be adjusted from the retirement benefits. But, there must be some specific order based upon cogent materials. In the case in hand, there is nothing as such.

8. Taking note of the aforesaid facts and the materials available on record, admittedly neither any action has been taken against the petitioner nor a departmental proceeding has

been initiated with regard to the unauthorized absence or the breakage of service. The respondent authorities, at this juncture, cannot be allowed to raise all these points. The counter affidavit also lacks any specific averments with regard to the period for which electricity charges have been found to be payable. In such circumstances, this Court left with no option, but to direct the respondent authorities, especially respondent no. 3 to consider the claim of the petitioner for final settlement of the retiral benefits of the petitioner, preferably within a period of 12 weeks, from the date of receipt/production of a copy of this order.

9. The writ petition, accordingly, stands disposed off with the aforesaid direction.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.11.2024
Transmission Date	NA