IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.250 of 2023
In
Civil Writ Jurisdiction Case No.19809 of 2019

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1. Indranand Thakur Son of late Khamakhya Prasad Thakur, At present resident of village Fattepur Belahi, P.O. Lohat, P.S. Pandaul, District Madhubani.
2. Ram Khelawan Yadav Son of late Sukhdeo Yadav, Resident of village and P.O. Bithuar, Via Lohat, District Madhubani.
3. Birendra Kumar Karn, son of late Awadh Narayan Karn, At present resident of village Belahi, P.O. Lohat, P.S. Pandaul, District Madhubani.
4. Mohan Jha, son of Dina Jha, at present resident of village Belahi, P.O. Lohat, P.S. Pandaul, District Madhubani.
5. Sudhir Chandra Thakur, son of late Shashikant Jha, at present resident of village Belahi, P.O. Lohat, P.S. Pandaul, District Madhubani.
6. Markandey Mishra, son of late Jai Nandan Mishra, at present resident of village Lakshmipur, P.O. Kaithiniya, P.S. Jhanjharpur, District Madhubani.
7. Ganesh Jha, son of late Badri Narain Jha, at present resident of village and P.O. Bathaney, P.S. Pandaul, District Madhubani.
8. Ram Krishna Thakur, son of late Sobha Nand Thakur, at present resident of village Barhmotra, P.O. and P.S. Pandaul, District Madhubani.
9. Lakhshmi Narain Jha, son of late Bhairab Jha, at present resident of village Pachari, P.O. Lohat, P.S. Pandaul, District Madhubani.
10. Ram Nath Chaudhary, son of late Pulkit Keot, at present resident of village and P.O. Sahpur, Via Lohat, P.S. Pandaul, District Madhubani.
11. Madan Khatwey, son of late Bauwa Khatwey, at present resident of village and P.O. Bithuwar, Via Lohat, P.S. Pandaul, District Madhubani.
12. Gangai Paswan, son of late Gokhul Paswan, at present resident of village Nabath, P.O. Lohat, P.S. Pandaul, District Madhubani.
13. Bhola Jha, son of late Shambhu Jha, at present resident of village Sarhad, P.O. Lohat, P.S. Pandaul, District Madhubani.
14. Ashok Dutta Jha, son of late Binod Dutta Jha, at present resident of village and P.O. Ujan, District Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar Through its Principal Secretary, Sugar Cane Industry Department, Govt. of Bihar, Patna.

2. The Bihar State Sugar Corporation Limited through its Managing Director, Camp New Secretariat, Sugar Cane Industry Department, Vikash Bhawan, Patna - 800001.
3. The Managing Director, Bihar State Sugar Corporation Limited, Camp New Secretariat, Sugar Cane Industry Department, Vikash Bhawan, Patna - 800001.
4. The Chief Administrator, Bihar State Sugar Corporation Limited, Camp New Secretariat, Sugar Cane Industry Department, Vikash Bhawan, Patna - 800001.
5. The General Manager, Bihar State Sugar Corporation Limited, Unit Lohat, Lohat Sugar Factory, P.O. Lohat, P.S. Pandaul, District Madhubani.
6. The Darbhanga Sugar Company Provident Fund through its President-cum-General Manager of Lohat Sugar Factory, P.O. Lohat, P.S. Pandaul, District Madhubani.
7. The District Magistrate-cum-District Officer, Madhubani.
8 Chandan Devi wife of late Amrendra Prasad Singh, at present resident of village Khangaw, P.O. Bathwy, P.S. Pandaul, District Madhubani.

... ... Opposite Party/s

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Appearance :
(In CIVIL REVIEW No. 250 of 2023)

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Advocate Mr.Kripa Nand Jha, Advocate
For the Opposite Party/s	:	Mr.Yogendra Prasad Sinha (Aag 7) Mr. Rajeev Kumar Sinha, AC to AAG7
For the Corporation	:	Mr. Gyan Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
Date : 12-07-2024

1. Heard learned Senior counsel for the petitioners and learned counsel for the respondents.

2. The instant application has been filed praying for review of the order dated 8.9.2020 passed in C.W.J.C No.19809 of 2019.

3. C.W.J.C No. 19809 of 2019 was filed by the petitioners therein for directing the respondents for making payments of the arrears of salary for the period from April, 1997 to November, 2003, current/full salary for the period from January, 2004 till date and/or revised cut off date i.e 31.3.2016 under the revised exit settlement plan vide memo no. 459-C dated 5.10.2018, and for directing the respondents for making payment of post retiral dues along with interest thereon and for other reliefs.

4. Learned Senior counsel appearing for the petitioners submits that though the instant application has been filed praying for review of the order dated 8.9.2020, however, the application is more in the nature of modification or clarification of the said order. The relevant portion of the order dated 8.9.2020 of which modification/ clarification is sought is quoted herein below for ready reference:

> *"In paragraph no.14 of the counter affidavit it is averred that so far as the claim of the present petitioners are concerned, they were the seasonal employees of the Lohat Unit of the Corporation and calculation of their dues under the exit scheme is under process along with other employees. Further for ready reference*

paragraph nos. 14, 15 and 16 of the counter affidavit filed on behalf of the respondent nos. 2 to 5 is being quoted herein below :-

> *"14.That so far as claim of the present petitioners are concerned; they were the seasonal employees of the Lohat unit of the Corporation and calculation of their dues under the Exit Scheme is under process along with other employees.*
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> *15. That it is relevant to state here that there is a resolution of the High Power Committee of the Government bearing memo no.- 2216 dated 18.11.2013 that if any seasonal employees of the corporation has worked in the unit with approval of the competent authority after the Curt Off date, he shall be paid the salary for the period he has worked after deducting the Holidays. So if any of the present petitioners has worked after the Cut Off date fixed for the Seasonal Employees with approval of the competent authorities, he shall be paid salary in light of the said resolution."*
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> *"16. That from the facts stated above it is evident that the process of calculation of dues of the employees of the Lohat unit is under process and it would be completed without undue delay and payment of the petitioners shall be made accordingly. So far as payment of PF is concerned the same comes under the jurisdiction of The Darbhanga Sugar Company Provident Fund Trust, Lohat, Madhubani which is an independent*

body."

5. It is submitted by learned Senior counsel appearing for the review petitioners that the stand of the petitioners is that they were regular employees and not seasonal employees of the Lohat Unit of the Corporation. As such the respondents cannot be permitted to treat them as seasonal employees. It is further submitted that pursuant to the directions contained in order dated 8.9.2020, the respondents are treating the petitioners to be seasonal employees and making calculations of their dues on that basis.

6. Learned counsel for the respondents opposes this petition mainly on two grounds. Firstly, that there is no explanation whatsoever given by the petitioners in their interlocutory application for the condonation of delay of three years in filing of the review application. It is further submitted that contrary to the submissions made, the application filed is by way of a review and not modification.

7. Having heard learned counsel for the parties, so far as the delay in filing of the application is concerned,

having gone through the statements made in the interlocutory application the Court condones the same. I.A. No. 1 of 2023 stands allowed.

8. On merits of the application, it may be observed that the instant application has been filed for review of the order dated 8.9.2020. The grounds for filing a review application are provided in Order XLVII of the Code of Civil Procedure which are : (1) on discovery of new and important material or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time order was made;(2) on account of some mistake or error apparent on the face of the record; (3) or for any other sufficient reason. The case of the petitioners is not covered under any of the three grounds.

9. Further, so far as the clarification sought by the learned Senior counsel with respect to the portion of the order dated 8.9.2020 quoted hereinabove is concerned, it may be observed that the Court was referring to the statement made by the respondents in paragraph no. 14 of the counter affidavit with respect to the petitioners being seasonal employees and there is no finding to that effect recorded by this Court. In fact,

after quoting paragraph no. 14, this Court in the order dated 8.9.2020 proceeded to further observe as follows:

> *"Having heard learned counsel for the parties, in view of the averments made in the counter affidavit that so far as the petitioners are concerned, calculation of their dues under the exit scheme is under process along with other employees, this Court does not deem it expedient to keep the instant application pending.*
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> *The respondent authorities are directed to calculate the dues payable to the petitioners under the exit scheme applicable to them and the amount found payable under the arrears of salary as also the post retiral dues, shall be paid through RTGS by the respondent nos. 5 and 7 as provided in Clause 8 of the letter dated 5.10.2018 (Annexure 2).*
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> *The amount found payable to the petitioners shall be paid within a period of four months from the date of receipt/production of a representation along with a copy of this order. The petitioners shall also be paid statutory interest as applicable and to which they are found entitled.*
>
> *The writ application stands disposed of with the above observations and directions."*

10. In the portion of the order of which review is sought quoted hereinabove it would clearly be evident that the respondents authorities were directed to calculate the dues payable to the petitioners under the exit scheme applicable to them; which makes it clear that the Court has not giving a finding with respect to them being seasonal employees.

11. In view of facts and circumstances stated

hereinabove, the Court finds that there is no ground available to the petitioners for filing a review application.

12. The review application is dismissed.

13. It is clarified that the Court has not entered into the merits of the case of the writ petitioners/ review applicants as to whether they are seasonal employees or permanent employees as claimed by them.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	16.7.2024
Transmission Date	