

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.503 of 2020

1. Nar Narayan Singh Son of Late Bishwanath Singh, Resident of Village-Amsari, P.O.-Amsari, P.S.-Murar, District-Buxar, Pin Code-802126 (Bihar).
2. Bijendra Rajak, Son of Late Ganga Bishun Rajak, Resident of Village-Dashratha, A.O.C. Pain Par, P.O.-Anisabad, P.S.-Beur, District-Patna, Pin Code-800020 (Bihar).
3. Hira Chaudhary, Son of Late Aklu Chaudhary, Resident of Village-Karha Bazar, P.O.-Silao, P.S.-Silao, District-Nalanda (Bihar).
4. Sri Ram Sahay, Son of Late Kanhaiya Lal, Resident of Village-Udaypur Verma Colony, P.O.-Khanpur, P.S.-Khanpur, District-Samastipur (Bihar).
5. Ramji Paswan, Son of Late Dhanukdhari Paswan, Resident of Village-Pachhara Bujurg, P.O.-Bargaon, P.S.-Kusheshwar Asthan, District-Darbhangha (Bihar).
6. Upendra Sharma, Son of Late Kamaldeo Sharma, Resident of Village-Ram Nagar, P.O.-Kurthaul, P.S.-Parsa Bazar, District-Patna (Bihar).
7. Bibhuti Kumar Pandey, Son of Late Sachchidanand Pandey, Resident of Shiv Niketan, Gopi Lodge, Opposite H.T. Limited, Lover Nath Nagar Road, Parwati, District-Bhagalpur (Bihar).
8. Radheshyam Tripathi, Son of Late Ramanand Tripathi, Resident of House No. 229, Gali No. 8, Samalaka Extension Telephone Exchange Road, P.S.-Kapdas Kheda Samalaka, New Delhi, Pin Code-1100037.
9. Pradeep Kumar Arora, Son of Late Om Prakash Arora, Resident of Qtr. No. 9/7, Railway Colony, Chanakyapuri, New Delhi, Pin Code-1100021.
10. Sri Navin Prakash Narain, Son of Late Hridai Narain, Resident of House No. 5A, Patliputra Colony, P.S.-Patliputra, P.O. Patliputra, District-Patna, Pin Code-800013 (Bihar).
11. Shail Devi Wife of late Nand Kishore Prasad, Resident of Village- Ratanpur, P.O.- Rajhat Akbarpur, P.S.- Akbarpur, District- Nawada (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Principal Secretary, Industries Department, Government of Bihar, Patna.
4. The Managing Director, Bihar State Export Corporation Limited (Under Liquidation), Budh Marg, Patna.
5. Registrar of Companies, Bihar-cum-Official Liquidator, High Court, Patna at Maurya Lok Complex, 4th Floor, Block-A, Dak Bungalow Road, Patna.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raju Giri
For the Respondent/s : Mr.Yogendra Prasad Sinha (AAG-17)
Mr. Alok Agrawaal (For the O.L)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

27 26-09-2024 Heard Learned Counsel for the petitioners, Learned
Counsel for the State and Learned Counsel for the O.L present.

2. The present writ petition has been filed for directing the respondents to make payment of due salaries to all the petitioners with statutory interest, retiral benefits to those petitioners who have retired besides their due salary and also to make adjustment in other Departments/Parent Department to those petitioners who have to retired esp. in terms of Letter No. 38 O.U.S (Misc.)- 17/15 52F, Patna dated 14.03.2048 and Letter No. 38 P.U.S (Misc.)-17/15 132F, Patna dated 20.06.2018 both issued by the Department of Finance, Government of Bihar. Further prayer has been made to the Respondents to make payments to the Contributory Provident Fund in terms of Letter No. 38 P.U.S. (Misc.)-17/15 132F, Patna dated 20.06.2018 issued by the Department of Finance, Government of Bihar to the petitioners who have retired.

3. Learned Counsel for the petitioners submits that after long pending litigation, it has been filtered that grounds



taken by the Learned Counsel for the State that none of the Officials of Bihar State Export Corporation has been adjusted in the department of Industry, Government of Bihar after the winding up of the proceeding, is not correct, is support, he has filed supplementary affidavit containing details of persons adjusted after winding up. As well as annexed a Judgment passed by Hon'ble Supreme Court of India in which relief has been granted to employees of Bihar State Construction Corporation Ltd.

4. In response thereof, Learned Counsel for the State submits that decision to adjust the Officials in Department of Industry, Government of Bihar was taken prior to winding up, only letter of absorption/deputation has been issued later on. Therefore, contention of the petitioners is that they have been absorbed after winding up, is not correct.

5. In this regard, this Court is of the firm view that any decision taken in the file, till it is not notified or published and comes in public domain, shall not be taken into consideration. Admittedly, the said letter with regard to two persons to consider on deputation has been published vide Memo No. 777 dated 02.03.2015 whereas winding up order has been passed 29.01.2020. Hence the contention of the



Department of Industry, Government of Bihar cannot be accepted.

6. Upon perusal of records, it transpires that Learned Counsel for the petitioner has filed a supplementary affidavit in which Judgment dated 03.09.2024 passed in Writ Petition (Civil No. 932 of 2022) in case of ***Bihar Rajya Ardhsarkari Arajpatit Karamchari Mahasangh Vs State of Bihar & Ors.***, Hon'ble Supreme Court of India has made certain specific observations, and hence, this Court is of the firm view that the ratio made by Hon'ble Supreme Court of India in paragraph no. 13 of the said case i.e. ***Bihar Rajya Ardhsarkari Arajpatit Karamchari Mahasangh Vs State of Bihar & Ors.(Supra)*** is applicable in present writ also and it is binding upon the Additional Chief Secretary, Industries Department, Government of Bihar, Patna i.e. Respondent No. 3.

7. The ratio of the said case in Paragraph No. 13 of the Judgment is as follows:-

(I) With respect to Bihar State Construction Corporation Limited, both the State Governments are directed to expedite the process of identification, verification and quantification of dues of the employees and ensure that the same is cleared at the earliest, in any case, within a period of two months, failing which the Court will be compelled to take coercive measures against the defaulting State Governments.

(ii) The State of Bihar is directed not to await the outcome of the liquidation proceedings of Bihar State



Construction Corporation Limited and will proceed to clear all the outstanding liability of the employees of the said corporation as directed above.

(iii) Although substantial liability of BSIDC in the State of Jharkhand has been discharged by disbursement of Rs.42.78 Crores by the High Court as noted above but there still remains some liability to be cleared which may be done without any delay.

(iv) However, there is substantial liability due with respect to the employees located within the State of Bihar unit of BSIDC. The State Government of Bihar shall clear all such liabilities of the employees located in Bihar within a period of two months and submit a compliance report by the next date.

(v) The respective State Governments are directed to ensure payment of compensation to the families of the 329 deceased employees within a period of two months and submit a compliance report on or before the next date, failing which coercive measures may be taken against the respective State Governments

8. Hence, this writ petition is disposed off directing the Principal Secretary, Industries Department, Government of Bihar, Patna (Respondent No. 3) to decide the case of the petitioners with regard to observations made in case of ***Bihar Rajya Ardhsarkari Arajpatit Karamchari Mahasangh Vs State of Bihar & Ors.(Supra)*** as mentioned in Paragraph No. 13 of the said Judgment.

9. In the above facts and circumstances, following directions are issued:

a) With respect to the Bihar State Export Corporation, State Government is directed to expedite the process of identification, verification and quantification of dues of the



petitioners being employees of corporation and ensure that the same is cleared at the earliest, in any case, within a period of six months.

b) The State of Bihar is directed not to await the outcome of the liquidation proceedings of Bihar State Construction Corporation Limited and will proceed to clear all the outstanding liability of the employees of the said corporation. It is further directed to adjust those petitioners who have not crossed the age of retirement within six months.

c) It is also directed to the State of Bihar to ensure the payment of the compensation or any other benefits to the families of the deceased employees if 'State' finds that they are entitled for the compensation and other benefits.

10. This Court is conscious about this fact that the ratio laid down by Hon'ble Supreme Court in the case of ***Bihar Rajya Ardhsarkari Arajpatit Karamchari Mahasangh Vs State of Bihar & Ors.(Supra)*** is relating to Bihar State Construction Corporation Limited whereas the present case relates to the employees of Bihar State Export Corporation Limited but the facts and circumstances of both the cases are identical, therefore, Bihar State Export Corporation Limited is hereby directed to decide this case in accordance with the observations made by the by Hon'ble Supreme Court in case of ***Bihar Rajya Ardhsarkari Arajpatit Karamchari Mahasangh Vs State of Bihar & Ors.(Supra)*** and the decision in this regard shall be taken within six months from the date of production/receipt of a copy of this order, along with the representation.



11. Accordingly, the present writ petition stands disposed off.

(Dr. Anshuman, J)

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