

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9050 of 2024

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Ishwar Lal Paswan Son of Late Nokhe Lal Paswan, Resident of 188, Ram Krishna Colony, East of Bazar Samiti, Sampatchak, Mahendru, District Patna, P.O.- Mahendru, P.S.- Bahadurpur Bihar- 800006.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority The Managing Director, Udyog Bhawan, East Gandhi Maidan, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Executive Director, Operations, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Chief Accounts Officer, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
6. The Deputy General Manager (H.R. and Admin), Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sachin Kumar, Advocate.
Mr. Harsh Kaushal, Advocate.
Ms. Annapurna Sinha, Advocate.
Ms. Anjali Tulsyan, Advocate.

For the Respondent/s : Mr. Lalit Kishore, Senior Advocate with
Mr. Ayush Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

15 12-01-2026 Heard the learned Counsels appearing on behalf of the
respective parties.

2. The present Writ Petition has been filed for the
following reliefs:-

“(i) For setting aside the order



vide Memo No. 1048/Estt. dated 29.01.2024 passed by the Respondent No. 4, Executive Director (Operation) BIADA, Patna wherein and whereunder in most whimsical, arbitrary, cryptic order was passed wherein without considering the facts and coterminous, similarly situated contractual employee has been given the benefit of gratuity in terms of the Central Act i.e. Payment of Gratuity Act, 1972, and in terms of Order dated 17.11.2021 passed by the Hon'ble Court in CWJC No. 3538 of 2021, Sachin Kumar Vs. The State of Bihar and Ors. and subsequent payment in terms of the Memo No. 295 dated 29.01.2022, the legitimate, bona-fide super annual has illegally, capriciously, maliciously been rejected vide Memo No. 7532/02/Estt/BIAIDA 2023 dated 16.12.2023.

(ii) For directing the Respondent Authorities to pay the Gratuity to the petitioner, since the petitioner is entitled on account of continuous working as an Executive/Area Manager with Respondents from 06.09.2007 till 25.09.2022 (i.e. about 15 years) under the payment Gratuity Act, 1972 which has not yet been paid despite the representation filed for the same in terms of the order dated 01.11.2023 passed by the Hon'ble Court in CWJC No. 7661/2023.

(iii) To direct the Respondents to make payment of aforesaid amount along with statutory interest as prescribed in Section 7 (3A) of the payment Gratuity Act, 1972 from the date of its due till the



date of its actual payment.

(iv) To hold and declare the prayer of the petitioner for the grant of gratuity along with the payment of interest concomitant thereto is squarely covered by the order dated 17.11.2021 passed by the Hon'ble Court in CWJC No. 3538 of 2021, Sachin Kumar Vs. The State of Bihar and Ors. and subsequent payment in terms of the Memo No. 295 dated 29.01.2022.

(v) After allowing the aforesaid prayer is further pleased to direct the Respondents to pay the cost of the instant litigation to the petitioner and also the interest calculated till the grace period."

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner was an employee of the Respondent-BIADA and has been working since 2007. Learned counsel submits that the petitioner has retired from the service on 25.09.2022 after completion of 60 years, however, the authority till date have not paid the gratuity amount due to the petitioner. Learned counsel submits that the petitioner has earlier approached this Hon'ble Court by way of CWJC No. 7661 of 2023 which was disposed of by this Hon'ble Court on 01.11.2023 directing the Respondent-BIADA to look into the matter and pass necessary orders. Learned counsel submits that the Respondent-BIADA has passed the impugned order dated 29.01.2024 vide Memo No. 1048/Estt. whereby the respondent-



authorities have taken stand that the petitioner was appointed on contractual basis as an Executive in the BIADA vide Letter No. 3547/Estt. dated 01.09.2007 for initial period of of 12 months and, thereafter, the same has been renewed on yearly basis. As the petitioner been appointed on contractual basis, the question of paying the gratuity amount does not arise, that same is applicable only to the permanent employees of the Respondent-BIADA. Learned counsel has submitted that the Respondent-BIADA under similar circumstances have extended the gratuity benefits to one Sachin Kumar S/o Ashok Kumar Singh who was similarly placed as the petitioner and he was also appointed on the contractual basis. Learned counsel has drawn the attention of this Hon'ble Court to the judgment passed by this Hon'ble Court in CWJC No. 3538 of 2021 dated 17.11.2021 (Annexure P/7) in respect of the said Sachin Kumar and the consequential orders (Annexure P/8) passed by the Respondent-BIADA dated 29.01.2022 whereby the said Sachin Kumar was extended the benefits under the Gratuity Act with interest. Further, it is stated that other contractual employees similar to the petitioner had approached this Hon'ble Court by way of CWJC No. 181 of 2015, CWJC No. 11535 of 2015 and CWJC No. 8583 of 2019 and this Court vide order dated 23.11.2015, 21.09.2017 and



25.06.2019 respectively and based on the orders passed in their favour by this Hon'ble High Court, the Respondent-BIADA authority have paid the gratuity amounts. That the petitioner is also similarly situated as that of the other contractual persons and, therefore, the contention of the learned counsel appearing on behalf of the Respondent-BIADA that the petitioner is not a regular/permanent employee and the gratuity amount cannot be paid is without any legal basis and the same is discriminatory action taken by the Respondent-BIADA. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order dated 29.01.2024 and direct the respondent-authority to consider the case of the petitioner afresh duly taking into consideration the other similarly situated persons who have already been extended the benefit under the Gratuity Act. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

4. Per contra, the learned counsel appearing on behalf of the Respondent-BIADA has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner is not eligible under the provisions of the Gratuity Act as he is not a permanent employee of the Respondent-Organization. That the Gratuity Act will apply only



to the persons who are permanent employees of an organization and therefore, the gratuity amount payable under the provisions of the Gratuity Act is not applicable to the petitioner. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. When queried by this Court regarding the Annexure P/7 i.e. the Judgment of this Hon'ble Court dated 17.11.2021 in CWJC No. 3538 of 2021 in respect of an employee, namely, Sachin Kumar and the consequential orders dated 29.01.2022 passed by the Respondent-BIADA (Annexure P/8) with regard to the benefits paid under the Gratuity Act, the learned counsel appearing on behalf of the Respondent-BIADA has fairly submitted that the said Sachin Kumar has been paid the gratuity amount and is similarly situated as that of the petitioner.

6. Having regard to the above mentioned facts and circumstances, the present writ petition is allowed and the impugned order dated 29.01.2024 is set aside. The matter is remanded back to the Respondent-BIADA for reconsidering the entire issue duly taking into account that the Respondent-BIADA has already extended the benefit of the Gratuity Act to similarly situated persons as that of the petitioner i.e. Sachin Kumar and other similarly situated persons. The authority shall



endeavour to pass necessary orders and make the necessary payments along with interest as expeditiously as possible preferably within a period of 8 weeks from the date of the receipt of the copy of this order.

7. With the above directions, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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