IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No.2353 of 2025

Gorakh Prasad, aged about 78 years, S/o Late Ram Dhyan Bhagat, R/o Village- Hussepur, P.O. – Hussepur, P.S.- Bhory, District- Gopalganj- 841426 (Bihar). … Petitioner

Versus

1. The State of Bihar, through Secretary, Industries Department, Vikash Bhawan, Patna, P.O. & P.S.- Patna, District- Patna.
2. M.D. Bihar State Industrial Development Corporation, Indra Bhawan, Near Railway Crossing, Bailey Road, PO- Patna, P.S. Gandhi Maidan, Dist- Patna-800001.
3. Manager, Swarnrekha Watch Factory, (a unit of Bihar State Industrial Development Corporation, HTIF Colony, G.M. Bunglow, Namkum, P.O. & P.S.- Namkum, District- Ranchi.

… Opposite Parties.

For the Petitioner : Mr. Mukesh Bihari Lal, Advocate.
For the State : Mr. S.P. Roy, Addl.P.P.
For the BSIDC : Mrs. Richa Sanchita, Advocate.
Ms. Risheeta Singh, Advocate.
(through Video conferencing)

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This writ petition has been filed invoking the jurisdiction of this Court under Article 226 of the Constitution of India with the prayer to quash the order dated 25.05.2024 by which the Respondent No.2 rejected the claim of the petitioner regarding retirement benefits.

3. This is the second journey of the petitioner in the same matter. Earlier the petitioner filed W.P. (S) No. 2187 of 2015 and a co-ordinate Bench of this Court vide order dated 10.01.2024 disposed of

the aforesaid case with direction to the petitioner to file a fresh representation enclosing the copy of the order dated 10.01.2024 passed in W.P. (S) No. 2187 of 2015 along with any other documents on which he is relying upon and on receipt of the same, Respondent No.2 was directed to consider the case of the petitioner and extend all post-retiral benefits within a period of six weeks thereafter. Consequent upon the said order dated 10.01.2024 in connection with the aforesaid case, the petitioner submitted a representation. The admitted case of both the parties is that the petitioner joined as Daily-Wages worker in Bihar Scooters Limited (BSL), Fatuha on 27.08.1976. His service was regularized with effect from 01.07.1976. He has been transferred to Swarnrekha Watch Factory. On the allegation that while being the custodian of the watches and keys of the Bonded Stores/Almirah were with the petitioner, the petitioner was removing the watches from bonded stores resulting in shortage of the watches; the petitioner was put under suspension by the order of Manager of Swarnrekha Watch Factory on 23.09.1994 and during suspension period, the petitioner was directed to mark his attendance daily on the main gate of the Factory.

4. Upon the fresh representation of the petitioner, the respondent no.2 mentioned that a total amount of Rs.1,65,536/- was paid to the petitioner towards Subsistence Allowance and it was further directed by the respondent no.2 to the accounting team of Swarnrekha Watch Factory to calculate the total Subsistence Allowance till the date of superannuation and make the payment of

the same to the petitioner. The request for payment of full salary/gratuity, leave encashment and family pension of the petitioner was rejected being not accepted.

5. It is submitted by the learned counsel for the petitioner that the petitioner faced trial in G.R. Case No. 3551 of 1992 and in terms of the order dated 30.06.1997, he has been acquitted by the Sub-Divisional Judicial Magistrate, Ranchi. The petitioner also faced trial in connection with G.R. Case No. 1226 of 1994 corresponding to Namkum P.S. Case No. 46 of 1994 and vide order dated 11.06.1997, the petitioner was acquitted. The petitioner acquitted in connection with G.R. Case no. 2690 of 1994 vide judgment dated 23.06.2012. It is next submitted that no departmental enquiry was ever initiated against the petitioner nor petitioner was ever dismissed from service. It is next submitted that pursuant to his retirement, the petitioner became entitled to post-retiral benefits; consequent upon his acquittal in all cases. It is further submitted that the petitioner is entitled to arrears of salary since October, 1994. It is next submitted that as the petitioner remained suspended so, he did not get the benefit of 5th and 6th pay revision and was not considered for promotion and during the period of suspension, authorities have to adopt a sealed cover procedure for consideration of promotion. Hence, the prayer as prayed for in this writ petition be allowed.

6. The learned counsel appearing for Respondent No.1 submits that the Respondent No.1 is only a formal party hence, it has not

filed any counter-affidavit and the main dispute is between the petitioner and Respondent Nos. 2 and 3.

7. Learned counsel for the respondent no.2 and 3 on the other hand vehemently opposes the prayer and submits that the respondent no.2 has paid subsistence allowance till December, 1998. It is next submitted that the petitioner was never present in the factory concerned nor made any application for revocation of his suspension or regularization in his absence period, during his service. So, no action was taken by the Manager of Swarnrekha Watch Factory. In this respect, the learned counsel for the respondent no.2 and 3 draws attention of this Court to Annexure-A of the counter-affidavit dated 01.08.2025, which is the copy of the note-sheet which goes to show that a letter was directed to be issued to the petitioner asking him to report to Swarnrekha Watch Factory, Namkum, regularly; without which his case could not be considered as he is absconding for last so many years. It is then submitted by learned counsel for the Respondent No. 2 and 3 that the petitioner never marked his attendance after December, 1998 at the gate of the factory, as he was directed to do in the suspension order concerned, so he was not paid subsistence allowance after year 1998. It is next submitted that the answering respondent disbursed the salary to its employees in accordance with 3rd and 4th Pay Revision. The office of Answering respondents have been in loss for a very long period and payment is withheld due to shortage of resources and pending four

court cases. It is lastly submitted that this writ petition being without any merit be dismissed.

8. Having heard the submissions made at the Bar and after going through the materials in the record, this Court finds that the claims of the petitioner are basically on following heads: -

(i) Subsistence Allowance,

(ii) Payment of Full Salary,

(iii) Gratuity,

(iv) Leave Encashment

So far as the Subsistence Allowance is concerned, it is crystal clear that the Respondent no.2 in the impugned order has categorically mentioned that the accounting team of Swarnrekha Watch Factory should calculate total subsistence allowance of the petitioner till the date of superannuation and make the payment. So, this Court is of the considered view that the petitioner cannot be said to have been aggrieved, so far as subsistence allowance is concerned.

So far as payment of gratuity is concerned, as per Section 4 of the Payment of Gratuity Act, 1972, which read as under: -

> *"**4. Payment of Gratuity**-(1) Gratuity shall be payable to an employee on termination of his employment after he has rendered continuous service of not less than five years.*
>
> *(a). On his superannuation, Or*
>
> *(b). On his retirement or resignation, Or*
>
> *(c). On his death or disablement due to accident or disease.*
>
> *xxxxX"*

9. The undisputed facts remain that the petitioner rendered continuous service from 01.07.1976 to 23.09.1994 and also undisputed fact he has been superannuated on 31.03.2007; in view of

these undisputed facts, this Court is of the considered view that the petitioner is entitled to gratuity for the period he has rendered continuous service *i.e.,* 01.07.1976 to 23.09.1994. So, the respondent no.3 is directed to ensure payment of gratuity to the petitioner in respect of the said period.

10. So far as payment of full salary is concerned, the undisputed fact remains is that petitioner never work after 23.09.1994, it is a settled principle of law that a person who has never worked in any factory cannot claim salary as a matter of right, so this Court do not find any illegality in the respondent no.2 rejecting the request for payment of full salary to the petitioner.

11. So far as payment of leave encashment is concerned, it appears that the petitioner after 23.09.1994 never worked in Swarnrekha Watch Factory, so obviously no Earned Leave accrued to him, hence this Court do not find any illegality in the rejection of request of the petitioner for leave encashment and obviously the petitioner is also not entitled to family pension as the undisputed fact remains that family pension is not applicable to the staff of Swarnrekha Watch Factory. So, no illegality has been committed by the respondent no.2 in this respect as well.

12. In view of the discussion made above, the writ petition is disposed of with the direction to Respondent no.3 to ensure payment of Subsistence Allowance till the date of superannuation of the petitioner in terms of the impugned order dated 25.05.2024 passed by the Respondent No.2 and also to ensure payment of gratuity to

the petitioner for the period from 01.07.1976 to 23.09.1994 within a period of six weeks from the date on which this order is intimated to the Respondent no.2 and 3 by way of representation by the petitioner.

13. In view of the discussion made above, this Court is not inclined to accede to any other prayer of the petitioner. Therefore, this writ petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 18th September, 2026
AFR/ Amar

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