
(2014) 04 PAT CK 0069
In the Patna High Court
Case No : CWJC No. 3498 of 2005

Jivendra Jha

APPELLANT

Vs

Bihar State Co-operative Marketing Union and Others

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2015) 1 PLJR 722

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Vikas Kumar, Advocates for the Appellant; Rajendra Prasad and Manisha Singh, Advocates for the Respondent

Judgement

Chakradhari Sharan Singh, J.—Heard learned counsel for the petitioner as well as learned counsel appearing on behalf of the Respondent-BISCOMAUN. This writ application was filed on 17.3.2005 seeking direction to the Respondent-BISCOMAUN for payment of due arrears of salary for the period November, 1996 to July 2002 and also for payment of dearness allowance and interim relief due from July, 1995 to July 2002 with up-to-date statutory interest.

2. A counter affidavit was filed on behalf of the BISCOMAUN on 4.12.2006. The Respondents" did not dispute the petitioner"s claim for arrears of salary but it took a plea that its financial condition was very critical and it was not able to meet its liabilities towards its employees to pay their regular salary and retiral/death-cum-retirement benefits in time.

3. In paragraph 13 of the counter affidavit, the Respondents specifically stated, "BISCOMAUN is not denying as the claim of the salary of its employees but only request to co-operate with the management of BISCOMAUN so that the BISCOMAUN may be able to generate its fund and be able to make rest pay and salary without any hindrance".

4. In paragraph No. 14, it has been stated that the BISCOMAUN has adopted a

scheme to make payment as per availability of fund in chronological order and BISCOMAUN may be allowed to follow its self-supported scheme.

5. I do not think that after 8 1/2 years of the filing of the counter affidavit, taking the stand as indicated above, the Respondent-BISCOMAUN has any face to say any more that petitioner will have to wait further for payment of his arrears of salary.

6. Plea of maintainability of this writ application has also been raised on the ground that the BISCOMAUN is not a State within the meaning of Article 12 of the Constitution of India. This issue has recently been decided by special Bench of this Court in the judgment *The Organizer, Dehri C.D. and C.M. Union Limited Vs. The State of Bihar and Others, (The Organizer, Dehri C.D. & C.M. Union Limited Fazalganj, Sasaram vs. The State of Bihar)* and, therefore, this objection is overruled.

7. The Respondent No. 2 is directed to calculate the arrears of salary of the petitioner within one month of receipt/production of a copy of this order and ensure payment of entire arrears within a period of two months thereafter failing which the Respondents shall be required to pay interest @ 12% per month on said arrears from the date of institution of the writ application i.e. 17.3.2005 till the date of actual payment. This application is allowed accordingly.