
(2010) 11 PAT CK 0126

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 14361 of 2004

Ramesh Prasad and Anil Prasad

APPELLANT

Vs

The Chairman, Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 04-11-2010

Acts Referred:

Citation : (2010) 11 PAT CK 0126

Hon'ble Judges : Shailesh Kumar Sinha, J

Bench : Single Bench

Judgement

Shailesh Kumar Sinha

1. The grievance of the original Petitioner Kishori Prasad is that the Respondent-Board has adjusted a large amount on the ground that the excess payment has been made to him towards the leave encashment as also the overtime as well as the penal rent for the use and occupation of the quarters by the original Petitioner even after his retirement and, as such, the original Petitioner was put to serious financial hardship. It is submitted that, as a matter of fact, the original Petitioner was paid a sum of Rs. 69,036/- towards the leave encashment as per Cheque No. 179890 dated 6.7.2004, as mentioned in the counter affidavit filed on behalf of the Respondent-Board itself and as such any recovery allegedly on account of payment of excess leave encashment is not correct. Learned Counsel further submits that in fact, the Respondent-Board did not calculate the leave earned by the original writ Petitioner for the period prior to 1.10.1987 as the calculation has been made for the period 1.10.1987 to 31.5.2003 only. Copy of the service book, which has been annexed as Annexure A to the counter affidavit, is also not complete and as such, proper calculation of leave encashment was not made and the large amount was adjusted from his retiral dues.

2. Learned Counsel for the Petitioners has also got a grievance that the original Petitioner had worked overtime and as a matter of fact, still a sum of Rs. 2,57,366/- the Petitioners are entitled to receive from the Board and, as such,

the allegation of payment of Rs. 1,47,379/- being excess amount of overtime is absolutely incorrect. The learned Counsel for the Petitioners has relied upon an order of this Court dated 23.9.2008 passed in CWJC No. 2827 of 2007 and its analogous case in support of his submission that the original Petitioner was entitled to the overtime for the period he had worked notwithstanding the alleged restriction to work after 50 hours mentioned in the Standing order of the Board. Other submission of the Petitioner is that the original writ Petitioner had requested the Respondent-Board to settle the retirement benefits, which was not done and as such the Petitioner had no option but to continue in the Board's quarters for want of money. Moreover, the Board did not take any steps for his eviction under the law. In the above circumstances, it is submitted that no penal rent could be charged and recovered from the retirement dues.

3. Mr. Vinay Kirti Singh, learned Counsel appearing for the Respondent-Board, on the other hand, submits that the grievances which the Petitioners had put forth cannot be gone into properly in a Writ proceeding, which involve verification of the records and calculation with regard to number of days the Petitioner had earned, the calculation thereof as well as the other claims on account of overtime since the claims of the Petitioner are disputed claims.

4. Considering the submissions of the parties and their respective pleadings, it appears that the matter in issue involves calculations and also accounting with regard to the earned leave as also the number of hours of overtime worked by the original Petitioner as also the claim that no penal rent could be charged since the original Petitioner had requested the Board to allow him to continue in the official quarters till his retirement dues are not settled. The same remained unconsidered and no final decision was taken/communicated to the Petitioner.

5. In the above circumstances, the Petitioners are permitted to make a detailed representation stating distinctly and demonstrating their entitlements in different heads as also enclosing the copy of the relevant documents, if any, in support of such claims before the Secretary of the Bihar State Electricity Board, Patna (Respondent No. 2), with a copy to the Electrical Executive Engineer, Electric Transmission Division, Bihar Sharif, District-Naland (Respondent No. 6). In case such a representation is filed within a period of four weeks, the same may be considered and disposed of by a reasoned order in accordance with law indicating the sufficient reasons demonstrating the consideration of the claims of the Petitioners within a period of four months on receipt of such representation. The order passed on such representation be communicated to the Petitioners by post under registered cover. It goes without saying that upon consideration, if any amount is found admissible for payment, the same may also be paid expeditiously, preferably within the next six weeks from the date of passing of the reasoned order.

6. With the above observations/directions, the writ application stands disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs.