
**Smt. Prabha Devi and Others Vs Bihar State Food and Civil Supplies
Corporation Limited and Others**

None

Court: Jharkhand High Court

Date of Decision: July 27, 2009

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Judgement

D.G.R. Patnaik, J.

Heard Sri Afaque Ahmed, learned Counsel for the petitioner petitioners and Sri Abhiram Anand, for the respondents.

2. At the outset, it may be noted that during the pendency of this writ application, the petitioner had died. On the prayer of the learned Counsel for

the petitioner, the name of the petitioner has been deleted and this writ application is being pursued by his legal representatives who were his

dependents.

3. The petitioner in this writ application had prayed for a direction to the respondents to pay him the entire retiral dues including Pension, Gratuity,

Leave Encashment, Provident Fund and Group Insurance payable in his account and also for quashing the letter dated 31.08.2004 (Annexure-2)

issued by the Respondent No. 3 whereby he was directed to deposit an amount of Rs. 10,07,951.05 within 15 days from the date of order.

4. The petitioner was employed under the respondents as an Assistant Godown Manager in the year 1975 and thereafter he was transferred and

posted at several places. Ultimately, he retired from service on 31.08.2004. Thereafter, he was expecting payment of his retiral dues but the same

was not forthcoming. The petitioner submitted his representations demanding payment of his retiral benefits but instead of paying the same, the

respondents had served him the impugned letter dated 31.08.2004 calling upon him to deposit a sum of Rs. 10,07,951.05 on the ground that it

was detected that during his tenure of posting at several places, there was shortage of different amounts and the total shortage calculated was Rs.

4,94,184.17 out of which a sum of Rs. 2,47,067/- could be realized from the petitioner and the remaining balance was yet to be paid by the

petitioner and upon the remaining balance and the earlier unpaid amount, a further amount by way of interest @ 18% was added, and calculated at

a total outstanding dues of Rs. 10,07,951.05.

5. Learned Counsel for the petitioner submits that the impugned order demanding the deposit of the aforesaid sum is totally illegal and against the

principles of natural justice as because by an earlier notice dated 17.08.2004, which was actually served upon the petitioner on 23.08.2004, the

petitioner was allowed 15 days time to submit his explanation as to why the amount of Rs. 10,07,951.05 should not be recovered from him but

even before lapse of the 15 days time period, the impugned order was passed on 31.08.2004 directing him to deposit the amount. Learned

Counsel submits that the petitioner was not given adequate opportunity of explaining and of being heard against the proposed demand and the

proposed recovery of the amount from his retiral benefits. In fact, in his explanation submitted subsequently, he had explained that the entire

amount, purportedly found as shortage, was already recovered from his salary. Learned Counsel for the petitioner refers in this context to

Annexure-6 series to the writ application.

6. Learned Counsel for the respondent Bihar State Food and Civil Supplies Corporation Limited, acknowledges that though in the notice dated

17.08.2004 the petitioner was given 15 days time to explain and the notice itself was served upon the petitioner on 23.08.2004, but the impugned

order was passed even before the lapse of the 15 days period. Learned Counsel explains that the petitioner did not submit his explanation within

the time stipulated in the original notice and therefore the amount was assessed and the demand notice was issued to the petitioner.

7. From the rival submissions and the facts stated, it appears that before the decision taken by the respondents directing the petitioner to deposit a

sum of Rs. 10,07,951.05, the petitioner was not given adequate opportunity to explain as to why recovery should not be made from him. The

decision, as conveyed by the impugned order, was apparently taken unilaterally by the respondents without affording any opportunity to the

petitioner to explain. Such action on the part of the respondents is violative of the principles of natural justice and cannot be sustained.

8. It appears from the submissions of the learned Counsel for the petitioner that the retiral benefits of the petitioner has been withheld without

assigning reasons and, from the inferences drawn by the petitioner, the reason for withholding the payment appears to be non-fulfillment of the

demand of the respondents as conveyed by the impugned letter.

9. Considering the above facts and circumstances, the petitioner's prayer for setting aside the impugned order (Annexure-2) is allowed and the

impugned order is hereby set aside. The respondents may take a fresh decision in accordance with the Rules and procedures on the issue relating

to the shortage of amount, if any, and the decision shall be taken only after considering the explanation offered by the petitioner and after affording

his legal representatives opportunity of being heard. In the meantime, the respondents are directed to release the payment of the retiral dues which

is payable to the petitioner within two months from the date of receipt/production of a copy of this order.

With these observations, this writ application is disposed of.