
(2008) 07 PAT CK 0179
In the Patna High Court
Case No : MJC No. 2122 of 2005

Awadhesh Kumar Verma

APPELLANT

Vs

The Bihar School Examination Board

RESPONDENT

Date of Decision : 08-07-2008

Acts Referred:

Citation : (2009) 1 PLJR 185

Hon'ble Judges : R.M. Lodha, C.J; Kishore K. Mandal, J

Bench : Division Bench

Advocate : Mahesh Narayan Parbat, for the Appellant; Lalit Kishore, for the Respondent

Judgement

1. We heard the counsel for the petitioner. The grievance in the contempt petition is with regard to the disobedience of the order dated 2nd September, 2003. On 2nd September, 2003, the writ petition filed by the petitioner was disposed of by the following order:-

" Having regard to the facts and circumstances, this Court directs the Board to furnish the details of calculation item-wise with respect to the advances given to the petitioner and the amount adjusted on demand made by the petitioner forthwith, whereupon if the petitioner feels aggrieved by the said calculation, he shall file his further claim in detail before the Secretary of the Board (respondent No. 3). If such a claim is raised by the petitioner within two weeks, the same shall be examined and disposed of by respondent No. 3 within two weeks thereafter and any further amount found payable must also be paid within the said time.

With respect to commutation of pension, this Court finds that the reason assigned by the Secretary in Annexure-B for rejection of the claim raised by the petitioner is not tenable. The petitioner has furnished the object, for which he has sought for commutation of his pension in Annexure-4.

On bare perusal of the object, this Court, prima facie, finds that the petitioner

has made out a case for commutation of pension. However, the Secretary of the Board (respondent No. 3) shall reconsider the matter regarding commutation of pension and take final decision within three weeks and a copy of the sanction in that regard must also be handed over to the petitioner within the said time.

The writ application is, thus, disposed of with the direction that in case of non-compliance of any part of this order, the concerned authority shall be liable to pay a cost of Rs. 1,000/- (one thousand) from his pocket to the petitioner and the petitioner will be at liberty to file two-page affidavit for revival and for taking appropriate action."

2. The counsel submits that the calculation with regard to the loan advanced to the petitioner and the amount paid by the petitioner although furnished, does not reflect the correct position. He also submits that the commutation of pension has not been done in accordance with law.

3. We are afraid, the said contentions cannot be the subject matter of this MJC since admittedly the calculation concerning the loan advanced to the petitioner has been furnished and admittedly the petitioner has not chosen to raise a claim before the Secretary of the Board. As regards any error in the commutation of pension, the petitioner ought to have brought this fact to the notice of the concerned authority first and, if not corrected, the same should have been challenged in the appropriate proceeding.

4. We are, accordingly, satisfied that nothing needs to be done in this M.J.C. However, this will not preclude the petitioner in assailing the action of the respondent-Board in respect of calculation of the loan advance and the commutation of pension and all other grievance concerning the retiral dues, in appropriate proceedings in accordance with law, if so advised. M.J.C. is disposed of accordingly.