
(2008) 02 PAT CK 0158
In the Patna High Court
Case No : CWJC No. 2370 of 2005

Baleshwar Jha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 651

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Parth Sarthy, Vivekanand Pd. Singh, for the Appellant; Rajesh Kumar Verma, for the Respondent

Judgement

Barin Ghosh, J.—After retirement, petitioner did not receive what he was entitled to receive in law as his terminal/retiral dues from his employer-University. He was thus compelled to file the present writ petition. Petitioner retired on 31.1.2002. The principal grievance in the writ petition is that the salary of the petitioner stood revised with effect from 1.1.1996 and though the revised salary was to be released from 1.1.2001 upon giving effect to the revision from 1.1.1996, the same was not given effect to although the petitioner was still in employment on 1.1.2001.

2. Petitioner has brought on record the letter of the Government dated 20th July, 2001 which makes it abundantly clear that the petitioner is entitled to such revision. As a result of entitlement to such revision, the petitioner is also entitled to revised pension, gratuity and other terminal dues. It is the contention of the petitioner that the same has not yet been released and paid to the petitioner for no just reason. On retirement, the petitioner received Group Insurance amount with interest at the rate of 4% per annum instead of 11% per annum for no just reason. It has been stated that such interest has been paid to many retired teachers including those who have been named in paragraph 9 of the writ petition.

3. With the above grievances, the petitioner and some others filed a writ petition registered as CWJC No. 16356 of 2004, which was not entertained for impermissible joinder of causes of action vide an order dated 3.1.2005 preserving liberty of the petitioner to file a fresh writ petition and, accordingly, the present writ petition has been filed.

4. The present writ petition was presented on 17.2.2005 upon service of a copy of the writ petition to the Office of the Advocate General and also upon service of a copy thereof to the Advocate for the employer-University. Despite that no counter affidavit was filed and at the same time no step had been taken to redress the lawful and legitimate claims and dues of the petitioner.

5. On 25th July, 2005, respondents including the employer-University through their learned counsel prayed for three months' time to file a counter affidavit. Such time was granted but despite that no counter affidavit has been filed. Today, the learned counsel for the respondent-University has prayed for further adjournment for the purpose of filing a counter affidavit on the plea that a new Registrar has joined.

6. The present litigation is a creation of the University for it has failed to discharge its obligations in law vested upon it. Although by refusing to act in accordance with law it has forced the present litigation to be filed, it deliberately did not co-operate with the Court to sort out the claims and disputes, if any, in the litigation. The University has ensured postponement of the decision of this Court on the present litigation by failing to file an affidavit in order to continue to act in violation of law and deprive a citizen of his lawful dues.

7. I am convinced that when the University could not file an affidavit despite obtaining three months' time and thereupon in course of almost three years, it has no answer to what has been stated in the petition and the adjournment is being sought for without any conviction. It would, therefore, be an idle formality to postpone the hearing of this application.

8. In those circumstances proceeding on the basis that there is no dispute to the claims put forward in the petition founded on the decision of the Government dated 20th July, 2001, the writ petition is allowed by directing the University to settle the revision of salary to which the petitioner was entitled to from 1.1.1996 until his retirement and to pay the same to the petitioner within two weeks from today together with interest at the rate of 5% per annum.

9. The University is also directed to similarly revise the pension of the petitioner on the basis of his revised salary within a period of two weeks from today and to pay the arrears due on that account together with interest at the rate of 5% per annum. The University is also directed to pay to the petitioner within the time as above interest at the rate of 11% per annum in respect of Group Insurance and not 4% per annum as has been paid to the petitioner.

10. The aforementioned payments shall reach the petitioner without the

petitioner doing anything further.

11. In the event the dues and claims, as above, do not reach the petitioner within the period mentioned above, the University shall be liable to pay interest on and from the date of default at the rate of 15% per annum instead of 5% per annum.

12. The Registrar of the University shall pay cost of this litigation, which is assessed at Rs. 5,000/- (Five thousand), to the petitioner within seven days from today. The writ petition is accordingly disposed of.