(1995) 08 PAT CK 0049

In the Patna High Court

Case No : C.W.J.C. No. 1059 of 1995

Bali Ram Thakur APPELLANT

Vs

Bihar State Electricity Board and Another RESPONDENT

Date of Decision : 04-08-1995

Acts Referred:
Bihar Pension Rules, 1950 — Rule 43

Citation : (1995) 2 PLJR 609

Hon'ble Judges : B.P. Singh, J

Bench : Single Bench

Advocate : R.K. Sinha, for the Appellant; Shivendra Kishore and Sangita Laha, for the Respondent

Final Decision : Allowed

Judgement

B.P. Singh, J.—Heard counsel for the parties.

The Petitioner retired from the service of the Bihar State Electricity Board on 30th September, 1994 while functioning as Accounts Officer. His grievance is that his post retirement dues have been withhold for no reasons whatsoever. From the writ petition as well as the counter affidavit filed on be half of the Board it appears that some irregularities were detected in the year 1981-82 with regard to the payments made for purchase of material at the Barauni Thermal Power Station where the Petitioner was then posted. The case of the Petitioner is that it was in fact he who brought this into the notice of the Vigilance Department but the case of the Board is that when the Vigilance Department took up Investigation the Petitioner also brought certain facts to the notice of the Vigilance Department. This however is not relevant. What is relevant is the fact that a first information report was lodged by the Vigilance Department in the year 1992 in which the Petitioner was made one of the accused. The Petitioner thereafter superannuated in the year 1994 as earlier noticed.

2. It was submitted that Rule 43(b) of the Bihar Pension Rules has been adopted

by the Board and is applicable to the employer of the Board. Under Ruled 43(b) it is open to the Board to withheld a part or whole of the pension of the Petitioner vided a proceeding has been initiated or continue and it is found, that the Petitioner has been guilty of misconduct resulting in financial loss to the Board. It is not disputed that no such proceeding has been initiated against the Petitioner, and counsel for the Board explains that in. the absence of necessary evidence collected by the Vigilance Department with regard to the complicity of the Petitioner in the commission of the offence, it has not been possible for the Board to initiate a proceeding under Rule 43(b) of the Bihar Pension Rule as adopted by the Board.

3. The net result is that apart from the fact that a criminal case is pending against the Petitioner no order has been passed nor any proceeding initiated for withholding the pensionary dues to which the Petitioner is entitled. There is no rule or law which provides that if a criminal case is pending against an employee who has retired, he shall not be paid his pensionary dues.

4. In these circumstances this writ petition is allowed and the Respondent Board is directed to calculate the pensionary dues to which the Petitioner is entitled and pay to him the admitted dues within the period of ten weeks from the date on which a copy of this order is produced before Respondent No. 2. This is however without prejudice to the right, if any, of the Board to take an appropriate proceeding against the Petitioner in accordance with law.

