

(2012) 04 JH CK 0013
In the Jharkhand High Court
Case No : Writ Petition (S) No. 2453 of 2010

Basudeo Mishra

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-04-2012

Acts Referred:

Citation : (2012) 04 JH CK 0013

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : P. K. Deomani, for the Appellant;

Judgement

Aparesh Kumar Singh

1. Heard, learned counsel for the petitioner and learned counsel for the respondents. This writ petition has been preferred by the petitioner for following reliefs-

(a) Arrears of Salary with effect from 15.01.1982 to 14.11.2000 on account of Assured Career Progression i.e. ACP given to the petitioner,

(b) Arrears of Gratuity and Leave Encashment on the basis of Rs. 7250/-as the last pay drawn by the petitioner.

(c) Full pension on the basis of Rs. 7250/ as the last pay drawn by the petitioner and the arrears of pension with effect from 01.02.2004 to date, as the petitioner has been paid provisional pension to the extent of 90 percent only with effect from 01.02.2004, that too, on the basis of Rs. 6200/-as the last pay drawn by the petitioner and

(d) Penal interest at the rate of 18 percent per annum on the aforesaid due amount of the petitioner in view of the excessive delay being made in the payment at the same by the respondent authorities due to their callous and reckless attitude.

2. It is the case of the petitioner that he retired from service on 31.01.2004 from the post of Clerk (Junior Selection Grade) under the Assistant Director(Employment), Sub. Regional Employment Exchange, Bokaro. It is submitted by learned counsel for the petitioner that last pay drawn by the petitioner was Rs. 7250/-, but the payment of Gratuity and Leave Encashment was made to the petitioner on the basis of Rs. 6200/-as last pay drawn and also provisional pension to the extent of 90% has been paid to the petitioner with effect from 01.02.2004 on the basis of Rs. 6200/-. Thus, the petitioner is entitled to receive the arrears of gratuity, leave encashment and pension etc. as claimed in para-1 to the writ petition on the basis of correct last pay drawn at the time of his retirement.

3. The respondents have appeared and filed their counter affidavit. In paragraph no. 13, they have indicated the details of payment made to the petitioner. It has also been stated that last pay drawn by the petitioner was Rs. 7100/-and not Rs. 7250/-as claimed by the petitioner. It has also been stated that petitioner was granted first and second ACP after his superannuation w.e.f. 09.08.1999 vide letter no. 68(NI) dated 09.03.2005 issued by the Director, Employment and Training, Jharkhand, Ranchi. It has further been stated in para-14 that calculation of the payment of arrears of his salary w.e.f. 15.01.1982 to 14.11.2000 on account of time bound promotion to the petitioner has been done by the department vide letter no. 116(NI) dated 27.02.2007 and regarding the payment of his arrears of salary on account of time bound promotion from 15.01.1982 to 14.11.2000, it is stated that the matter relates to prior to creation of the State of Jharkhand and allotment has to be obtained from the Finance Department, Government of Jharkhand. However, the said demands could not be submitted in the first supplementary Budget as per the Government of India's instructions and the said demand will be put up again before the Finance Department for the second supplementary Budget in 2010-11, but it is not clear that whether the aforesaid demands relating to the aforesaid period have yet been made or not. However, it appears from the averments made in the instant counter affidavit that rest of the payment relating to post retiral benefits have been paid to the petitioner pursuant to the grant of two ACP and difference of amount have also been paid under the heads of gratuity and on unutilized earned leave and pension.

4. In the aforesaid facts and circumstances of the case, learned counsel for the petitioner submits that his grievance relating to the last pay drawn at the time of retirement of Rs. 7250/-has not been correctly taken into account while fixing the post retirement benefit and consequential revision arising thereof, as such, he seeks liberty to file representation before the competent authority in respect of correct fixation of last pay drawn by the petitioner and also certain arrears of salary claimed for the period 15.01.82 to 14.11.2000.

5. In view of the aforesaid facts and circumstances of the case, this writ petition is disposed of with liberty to the petitioner to file a fresh representation before

the respondent no. 3, the Director (Employment), Directorate of Employment & Training, Nepal House, Ranchi containing all necessary facts and documents as required by the competent authority for redressal of his limited grievance relating to the last pay drawn at the time of retirement, which according to the petitioner is Rs. 7250/-instead of Rs. 7100/-as calculated by the respondent and certain arrears of salary as indicated above, within a period of three weeks. In case, such a representation is filed before respondent no. 2, the Director (Employment), Directorate of Employment & Training, Nepal House, Ranchi, he would consider the same in accordance with law and pass a speaking and reasoned order within a period of six weeks thereafter and the same shall be communicated to the petitioner. In case, any necessary correction are required, they should be made in accordance with law and rules prevalent, in the last pay drawn by the petitioner and any consequential monetary benefit arising thereof, as also any arrears of salary if found legally admissible should be paid within six weeks thereafter. With the aforesaid observations and directions, this writ petition stands disposed of.