

(2002) 08 PAT CK 0106
In the Patna High Court
Case No : C.W.J.C. No. 11696 of 2001

Bihar Pensioners Samaj

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-08-2002

Acts Referred:

Citation : (2002) 4 PLJR 87

Hon'ble Judges : Ravi S. Dhavan, C.J;R.N. Prasad, J

Bench : Division Bench

Advocate : Ram Balak Mahto and Lalit Kishore, for the Appellant; S.K. Dutta, for the Respondent

Final Decision : Dismissed

Judgement

1. This petition is in a representative capacity challenging the validity of Bihar State Government Employees Revision of Pension, family pension and death-cum-retirement gratuity (validation and enforcement) Act, 2001. One round of litigation has been to the Supreme Court. After the SLP of State of Bihar was dismissed, to nullify the orders rendered by the superior judiciary the legislature of the State enacted the aforesaid enactment. On behalf of State of Bihar in certain terms the submission is that the legislature has the power and thus resorting to this power they have nullified the orders of High Court and Supreme Court, both. The Court will deal this question at the time of hearing.

2. But from the record the Court finds that (a) Petitioner has yet to file a rejoinder affidavit and (b) in the counter-affidavit, which has been filed, certain statement of facts have been avoided. In a matter like the present one which is basically a class action on behalf of all pensioners who draw pension from the State of Bihar, the lot of them on Whose behalf the petition is presented, are retired employees. It has also been accepted at the Bar that these employees are from class IV to Class I officers.

3. Naturally when any fruit resulting from a judgment or decree has been

nullified by an Act of Legislature, the persons who (sic-whose?) benefits are rendered a nullity do feel disappointed and frustrated. The Petitioners question whether certain allocation which could have been their benefit as pensioners could be negated to zero by the Government using its legislative powers. What are the benefits which the pensioners of Bihar could receive but cannot. It is the arrears of increased pension, otherwise recommended by the Central Pay Commission. In their retirement, as pensioners, the arrears means a lot to them, it is submitted. Now the pensioners, the question the State Government when it arrogated power to itself, take care of, to use words in the petition "jumbo size Ministry," of expenditure on Hon"ble members of the legislature, as Chairmen of several Corporations/Boards, of expenditure of Rs. 75 lac incurred in giving car advance to various Ministers, and yet further car advances, of enhancing the salary allowance and other perks and benefits of Cabinet Ministers, State Ministers, Chairman of the Council, Speaker of the Assembly and members of the Legislative Assembly/Council etc. Certain paragraphs of petition have not been answered in the counter-affidavit.

4. While Petitioners seek answers on public expenditure, the reply they have received from the State is in paragraph 13 of the counter-affidavit, which reads:

That in reply to statements made in paras 51 to 55 of the writ petition, it is relevant to state here that the State Government has to take a broader view of things as it is responsible to the whole society and it cannot adopt myopic view. As regards the allegations of the Petitioners about inter-sectoral allocation of resources, it is submitted that the State of Bihar has to spend more than Rupees 2000 crores on pensions which is more than its plan Expenditure.

Major portion of not only the State's Resources but also the grants and loans are eaten up by salaries, pension and interest on borrowings. Thus, the problem of limitations of resources of the State Government, especially in view of non-fulfilment of its commitment to the people in general is real and genuine and any further addition to its already non-sustainable burden can only be at the cost of fulfilment of minimum needs of the society.

5. This paragraph has been affirmed by a deponent on behalf of State as based on information derived from the records of the case.

6. After the matter has been to the Supreme Court and the SLP of the State of Bihar was dismissed and the State gives an answer to the pensioners that the Government has to take a broader view of things as it is responsible to the whole society and it cannot adopt a myopic view and that the State of Bihar has to spend Rs. 2000 crores on pensions which is more than its plan expenditure and the problem of limitations of resources of the State Government, especially in view of non-fulfilment of its commitment to the people in general, then, the information sought by the Petitioner is public information and relevant information. This is public information and it cannot be kept away either from the people or the court. Thus let the State of Bihar disclose to the court as to how

much it spends as is referred to in paragraph 51 (iv) (v) (vi) and (vii) of the writ petition which reads:

(iv) The State Government has been indulging in lavish expenditure to the tune of several crores over its jumbo size Ministry.

(v) After passing of the impugned, notification dated 19.4.1990 the State Government spent additional burden of Rs. two crores on appointment of several members of the Legislature as Chairman of several Corporation/Boards and expenditure of Rs. 75 lacs incurred for giving Car Advance to various Ministers and the Government fresh provision was made for giving further car advances.

(vi) The Bihar Legislature passed the Bihar Legislature Pay allowances and Pension of members (2nd Amendment) bill 1992 hurriedly on 30th July, 1992 and causing financial burden on the State exchequer to the tune of more than Rs. three crores.

(vii) Even recently after the aforesaid verdict of this Hon"ble Court the State Legislature came out with various enactments enhancing the salary allowance and other perks and benefits of the Cabinet Ministers, State Ministers, Chairman of the Council, Speaker of the Assembly and members of the Legislative Assembly/Council etc. putting a heavy burden on the State exchequer.

7. In addition let the expenditure on pension and the difference which would be payable to the pensioners if the impugned Act had not been passed, also be disclosed in the affidavit.

8. In addition let the counter-affidavit, which has been filed, be reaffirmed by the Secretary, Department of Finance, Government of Bihar. The information sought will be on an affidavit by the Secretary, Department of Finance, Government of Bihar.

9. Place before the Court on 2 September, 2002.

10. A copy of this order be sent to the Legal Remembrancer and Law Secretary.

11. As desired, let a copy of this order be delivered to S.C. IV.