

(2013) 03 JH CK 0089
In the Jharkhand High Court
Case No : WP (S) No. 5076 of 2003

Bimal Prasad Verma

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-03-2013

Acts Referred:

Citation : (2013) 2 JLJR 324

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Delip Jerath, Rajesh Kumar, Abhinesh Kumar, V.K. Vashistha, V.V. Pradha and A. Mishra, for the Appellant; R.R. Mishra for the Jharkhand and S.P. Roy and Binit Chandra for the Bihar, for the Respondent

Final Decision : Allowed

Judgement

S. Chandrashekhar, J.—The petitioner had retired from service on 31.1.1998 from Baisee Works Sub-Division, Purnea. The petitioner has moved this court seeking a direction upon the respondents to release arrears of salary between July, 1980 to May, 1984 and for arrears of salary for the said period due to revision in the pay-scale sanctioned by letter dated 29.6.2002. A direction upon the respondents for fixing and finalising the full pension and for payment of the same has also been made. The Respondent-State of Jharkhand has filed a counter-affidavit simply stating that since the petitioner retired from service on 31.1.1998, i.e. before the creation of the State of Jharkhand, the State of Bihar is liable to make payment of the retiral dues of the petitioner. The statements made in the writ petition has not been denied by the Respondent-State of Jharkhand.

2. The State of Bihar has also filed a counter-affidavit in the matter stating that the statement of last drawn salary of the petitioner is necessary for calculation of the arrears between the period July, 1980 and May, 1984 and for obtaining the necessary documents, the State of Bihar has written letters on 8.9.2011, 4.11.2011 and 22.10.2011, however, no reply has been received. Also, a letter

dated 10.9.2011 was written to Rural Works Division, Ranchi and it has also been stated vide letter dated 22.9.2003, the remaining 10% of the pension and gratuity has already been ordered to be released to the petitioner.

3. It appears that the matter was listed before this court on 9.9.2011 when Rule was issued in the matter. The matter was again listed on 22.9.2011 and 5.1.2012. Counsel appearing for the Respondent Nos. 3 and 4, the State of Bihar sought adjournment on 5.1.2012 and the matter was ordered to be listed on 19.1.2012. When the matter was heard on 19.1.2012, counsel appearing for the Respondent Nos. 3 and 4 submitted that the claim of the petitioner as mentioned in paragraphs 1 (a), (b) and (c) has been admitted by the State of Bihar, however, calculation for the said period has to be done by the State of Jharkhand and as and when the said calculation would be given to the State of Bihar, payment in accordance with law would be made to the petitioner. Counsel appearing for the State of Jharkhand recorded his no objection and accordingly this Court directed the calculation to be made on or before the next date of hearing. The matter was fixed for 9.2.2012 and 15.3.2012, however, no such calculation as ordered on 19.1.2012 was brought on record by the State of Jharkhand. It appears that after order dated 19.1.2012 was passed, a counter-affidavit dated 27.2.2012 was filed on behalf of the State of Jharkhand in which a statement has been made that in order to resolve the pending matter the answering respondent has written to the Government of Bihar, Building Construction Department and Road Construction Department vide letter no. 780 dated 2.2.2012 and to Rural Works Department, Government of Bihar and Executive Engineer, Works Division, Purnea on 18.2.2012.

4. From the aforesaid narration of facts, I find that the respondents on the one pretext or the other, have refused to discharge their duties. It is unfortunate that even after 15 years since the petitioner retired, he has to knock the door of this Court for his lawful dues which has been admitted by the State of Bihar. The State of Bihar has taken a stand that in spite of written letters to the authorities of Government of Bihar, it has not received the requisite papers and calculation and therefore, payment to the petitioner could not be made. Whereas, the State of Jharkhand has taken the stand that since the petitioner retired from service prior to creation of State of Jharkhand, it is the liability of the State of Bihar and in affidavit dated 27.2.2012, a statement has been made that in order to resolve the pending issue, letters have been written to the authorities of the Government of Bihar. The stand taken by the respondents are absurd and in defiance of logic. The officers concerned are liable to be proceeded departmentally.

5. There can be no manner of doubt that proper and timely action by the Government employees is a part of the concept of public accountability. Public duty and public obligation are essentials of good administration for any State. Inaction on the part of the Government functionaries is actionable under public law. Government officers are answerable for both their inaction and irresponsible actions. If what ought to have been done is not done, responsibility must be

fixed on the erring officers. Without going into the factual matrix of the case any further, I find that in view of the statement made on behalf of the Respondent Nos. 3 and 4 and the counsel for the State of Jharkhand, this writ petition deserves to be allowed in terms of paragraph-2 of order dated 19.1.2012.

6. In this case, I find that the petitioner has been denied payment of the arrears of salary and other benefits only on account of inaction on the part of the concerned respondents and therefore, I am constrained to order that if the payment of the petitioner as admitted by the Respondent Nos. 3 and 4 is not made and the undertaking given on behalf of the State of Jharkhand as recorded in order dated 19.1.2012, is not fulfilled within a period of six weeks from the date of communication of this order, a suo-moto contempt proceeding would be initiated against the persons who are holding the post of Respondent Nos. 2 to 5. On expiry of such period of six weeks, the petitioner is directed to furnish the name of the officers holding the post or Respondent Nos. 2 to 5, to the registry of this Court so that the proceeding under the Contempt of Courts Act, could be drawn. Let a copy of this order be given to the counsel for the parties also.