
(2004) 03 PAT CK 0031
In the Patna High Court
Case No : C.W.J.C. No. 1518 of 2004

Brij Nandan Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-03-2004

Acts Referred:

Citation : (2004) 3 PLJR 254

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Judgement

Radha Mohan Prasad, J.—As in both the writ petitions, the grievance of the Petitioners is similar and against the same University, namely, Patna University, as agreed, they have been heard together for final disposal.

2. In both the writ petitions, the Petitioners who retired from Science College under Patna University are aggrieved on account of non-release of their dearness allowance on gratuity, leave encashment and arrear on account of second time bound promotion. It is stated that after filing of the writ petition the amount of leave encashment has been paid but after deducting penal rent for occupying quarter by the Petitioner. In the second writ petition (CWJC No. 1676 of 2004) no such penal rent has been recovered.

3. Both the Petitioners vacated the quarter. Of course, there has been some delay on account of the fact that they were not paid their retiral dues. However, till date dearness allowance on gratuity and arrear on account of second time bound promotion have not been paid to the Petitioners.

4. Separate supplementary counter affidavits have been filed on behalf of the University and its officials. In paragraph 5 of the said counter affidavit it is stated that the State Government has not released any fund for payment of D.A. on gratuity despite repeated reminders. With respect to second time bound promotion, it is stated that the University will settle the dues of the Petitioners within a fortnight.

5. The said counter affidavits were sworn on 12.3.2004 and even after-expiry of fortnight's time, the same has not been paid. It is really unfortunate that on the one hand the University has not cleared the dues and, on the other hand, has realised penal rent for few months for overstaying of the Petitioner of CWJC No. 1518 of 2004 in the University quarter. In fact, in the facts and circumstances of the case, both the Petitioners, who retired long back i.e. on 30.11.2000 in the first case and on 30.6.2002 in the second case and yet the retiral dues have not been finally settled till date, are entitled for penal interest on delayed payment.

6. However, having regard to the facts and circumstances, this Court directs that the University shall not charge penal rent for overstay of the Petitioner in the first case but the Petitioners will have to pay normal rent. The Respondents are directed to pay the remaining aforementioned dues positively within two weeks, failing which the Vice-Chancellor of the University shall be liable to pay a cost of Rs. 2,000/- (two thousand) from his own pocket to each of the Petitioners and the Petitioners shall be at liberty to file two pages affidavit for revival.

7. Both the writ petitions are, accordingly, disposed of.