
(2009) 04 JH CK 0119
In the Jharkhand High Court

Chhotelal Pandey

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-04-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21

Citation : (2009) 04 JH CK 0119

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.N. Patel, J.—The present petition has been preferred mainly for getting an amount of interest upon the delayed payment, of salary.

2. It is vehemently submitted by the learned Counsel for the petitioner that in fact the petitioner was serving as a Surveillance Worker in a Primary Health Centre with the respondents, who retired on February 29, 2000. His salary for the months running from October, 1998 to February, 2000 was not paid at the relevant time, regularly. It was paid at a time in September, 2002 i.e. after the retirement of the present petitioner and, therefor? upon arrears of this amount towards salary, which is at Rs. 1,03,500/-, an interest ought to have been paid by the concerned respondents because of the delayed payment of the amount towards salary it is also submitted by the learned Counsel for the petitioner that some amount was also deducted from the retrial benefits, but he is not sure and certain as to what amount was deducted and whether actually deducted or not. Thus, only point canvassed before this Court is about payment of interest upon the principal amount of salary, which is at Rs. 1,03,500/-.

3. I have heard learned Counsel appearing for the respondents, who has submitted that it is a matter of fact that salary for the months running from October, 1998 to February, 2000 was not paid in time but was paid at a time in the month of September, 2002. The averments, made in paragraph No. 9 of the

memo of present petition is not replied in the counter affidavit at all and, therefore, learned Counsel for the respondents submitted that in fact, there is no statutory provision for payment of interest and, therefore, no interest can be awarded upon the delayed payment of salary and the petitioner, thus, deserves to be dismissed.

4. Learned Counsel for the respondents is also not in a position to state as to whether any amount was deducted from the retrial benefits. As the second point is not canvassed by the learned Counsel for the petitioner, learned Counsel for the respondents has also not argued on the second point.

5. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case:

(i) It appears that the petitioner was working as Surveillance Worker in a Primary Health Centre, situated at Angara within the district of Ranchi, who retired from the services of the respondents on February 29, 2000. No charges were levelled against the present petitioner nor any enquiry was pending against the present petitioner as on the date of retirement. No dues of the Government was pending with the petitioner.

(ii) It appears that on the contrary the Government had not paid salary to the present petitioner for the months running from October, 1998 to February, 2000. This salary was not paid regularly at the end of every month but the total amount of salary for the aforesaid period was paid only in the month of September, 2002 for no fault of the present petitioner.

(iii) Learned Counsel for the respondents is unable to point out any reason worth the name for the delayed payment of salary in the month of September, 2002.

6. Thus, in view of the aforesaid facts, reasons and looking to the counter affidavit/reply filed by the respondents in this writ petition, there were no reasons with the respondents much less justifiable reasons for the late payment of salary for the months running from October, 1998 to February, 2000. This payment of salary was made only in the month of September, 2002. It has been held by the Hon'ble Supreme Court in the case of S.K. Dua v. State of Haryana as reported in 2008 (II) L.L.J. 83 , especially at paragraph No. 11, as under:

Having heard the learned Counsel for the parties, in our opinion, the appeal deserves to be partly allowed. It is not in dispute by and between the parties that the appellant retired from service on June 30, 1998. It is also undisputed that at the time of retirement from service, the appellant had completed more than three decades in Government Service. Obviously, therefore, he was entitled to retrial benefits in accordance with law. True it is that certain charge-sheets/show cause notices were issued against him and the appellant was called upon to show cause why disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr. Quraishi against whom serious allegations of malpractices and

misconduct had been levelled by the appellant which resulted in removal of Mr. Quraishi from the post of Secretary, Irrigation. The said Mr. Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well-founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned Counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well-founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.

7. In view of the aforesaid ratio, laid down by the Hon'ble Supreme Court, the contention raised by the learned Counsel for the respondents that there is no law or statutory provision for awarding an interest upon the delayed payment of salary, is of no help to the respondents. Thus, even in absence of any statutory provisions, the interest ought to be paid by the respondents to the petitioner to update the money or updating the old payment of money on today's date always required payment of interest.

8. In view of these facts, reasons and judicial pronouncement, as stated hereinabove, I hereby direct the respondents to make payment of interest at the rate of 5% per annum upon the delayed payment of salary to the petitioner for the months of October, 1998 to February, 2000 till September, 2002. This calculation and payment will be made within a period of three months from the date of receipt of a copy of this order of this Court.

9. This writ petition is, accordingly, allowed to the aforesaid extent with no order as to costs.