
(2010) 04 PAT CK 0153
In the Patna High Court
Case No : CWJC No. 2379 of 2006

Daya Nand Prasad Sahu

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Citation : (2010) 04 PAT CK 0153

Hon'ble Judges : Jyoti Saran, J

Bench : Single Bench

Judgement

Jyoti Saran, J.—Heard Mr. Tarun Kumar Sinha for the petitioner and Mr. Manoj Kumar Jha, learned Assisting Counsel to G.A.I for the State.

2. In the light of an order dated 30.3.1979 passed by this Court in C.W.J.C. No. 1581 of 1974 filed by the present petitioner and the order dated 20.7.1981 passed in M.J.C. No. 412 of 1980, the Regional Deputy Director of Education, Bhagalpur Division, Bhagalpur issued an order bearing memo No. 876 dated 24.11.2004 (Annexure-6) whereby the petitioner was allowed the benefits of promotion in the Junior Selection Grade with effect from 1.7.1976, in the Senior Selection Grade with effect from 1.4.1981 and in the Super Selection Grade with effect from 11.4.1989. The petitioner superannuated while holding the post of Upper Division Clerk in the Super Selection Grade [with effect from 31.12.1994.

3. Despite the orders of this Court referred to above followed by the order of promotion dated 24.11.2004 which was issued after a delay of almost 25 years, the failure on the part of the respondents in providing the petitioner with the consequential benefits, gave rise to the present writ petition.

4. Learned Counsel for the petitioner submits that despite the aforesaid position, the authorities in the concerned department of the State Government have failed to provide the consequential benefits to the petitioner in the form of arrears of salary, refixation and payment of the pensionary benefits etc. within reasonable time. He submits that the retrial benefits of the petitioner had been fixed on the

basis of the salary drawn by the petitioner at the pre-promotional stage. He thus submits that not only the petitioner was entitled to the consequential benefits but in the special facts and circumstances of the case, he was also entitled for payment of interest on the pending dues, for the delay caused.

5. During the pendency of the proceedings, the respondents acted upon the order dated 24.11.2004 placed at Annexure-6 of the writ petition and provided the petitioner with consequential benefits viz, arrears of pay to the tune of Rs. 54,985/- on 31.3.2007, leave encashment of Rs. 6284/- in January, 2008, the arrears of pension amount of Rs. 1,15,569/- on 2.4.2008 and the gratuity amount of Rs. 6534/- also on 2.4.2008.

6. Learned Counsel for the petitioner thus submits that it has taken the authorities almost 30 years to implement the order passed by this Court in the writ petition. He further submits that even after the order granting promotion was passed on 24.11.2004, the respondents have delayed the payment of the consequential benefits for almost four years and which delay is unexplained and thus entitling the petitioner for payment of interest.

7. Mr. Manoj Kumar Jha, learned Counsel representing the State submits that there is an equal inexplicable delay on the part of the petitioner also, in having sat over the matter since after the disposal of the contempt application on 20.7.1981. He further submits that the petitioner should have been more vigilant and should have approached this Court within his service period and not waited for his retirement. He submits that the respondents, acting in pursuance of the orders of this Court have issued "the order of promotion dated 24.11.2004 and provided him with the consequential benefits as admitted in the supplementary affidavit filed today in this Court and that no extra ordinary case has been made out by the petitioner for grant of interest.

8. I have heard learned Counsel for the parties and perused the materials on record. Admittedly, there is substantial delay in implementation of the order passed by this Court. There is an equal unexplained delay on the part of the petitioner also in approaching this Court. Nonetheless, the petitioner was entitled for his consequential benefits in the light of the directions passed by this Court and the order dated 24.11.2004 (Annexure-6).

9. Having regard to the circumstances, I am not convinced in so far as the claim of the petitioner for interest for the earlier period is concerned, but definitely, the petitioner would be entitled to interest from the date the order of promotion was issued by the respondents but not acted upon for making payment of the consequential benefits.

10. In that view of the matter, keeping in mind the relevant circulars of the State Government on the issue of interest on belated payment of pension and gratuity, I deem it fit to award interest at the rate of 5% on the payment of arrears of salary, leave encashment, arrears of pension and gratuity amount which have admittedly been paid to the petitioner on 31.3.2007 and thereafter. The

petitioner would be entitled to interest at the rate of 5% on the said amount (s) to be calculated from the date, the order of promotion was passed on 24.11.2004 until the date of the respective payment(s) and which shall be paid to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

11. The writ petition is disposed of.