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**(2003) 07 JH CK 0046**  
**In the Jharkhand High Court**  
**Case No : L.P.A. No. 302 of 2001**

|                                                            |            |
|------------------------------------------------------------|------------|
| Divisional Manager, Bihar State Road Transport Corporation | APPELLANT  |
| Vs                                                         |            |
| Sadanand Prasad and Others                                 | RESPONDENT |

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**Date of Decision :** 28-07-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2004) 1 JCR 254

**Hon'ble Judges :** Vikramaditya Prasad, J; Gurusharan Sharma, J

**Bench :** Division Bench

**Advocate :** S.N. Pathak, for the Appellant; P.K. Verma, for the Respondent

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## Judgement

1. This appeal has been filed against part of the order dated 30.4.2001, passed by the learned Single Judge, in CWJC No. 1110 2001, whereby Bihar State Road Transport Corporation (for short "Corporation") has been directed to consider the desirability of payment of arrears of salary to the writ-petitioner, provided, while in service, he had worked during the period in question and pay the same, as early as possible, preferably within three months from the date of receipt/production of a copy of the order.
2. Admittedly, Sadanand Prasad, the writ-petitioner was employed as a conductor and was posted in Dhanbad depot of the corporation. He retired from service on 28.2.1999. He claimed in the above writ application that during the period 1994-99 his salary was not paid and his retiral dues was also not paid.
3. The learned Single Judge, in view of the fact that the Apex Court is monitoring the scheme framed by the State Government regarding payment of salary etc. of the employees of the corporation, including the retiral benefits of those, who has already retired has directed that the retiral dues of the writ- petitioner be paid strictly in terms of the directions issued by the Apex Court from time to time. Consequently the writ- petitioner, who is respondent No. 1 in the present appeal, shall get his retrial benefits as and when his turn comes in accordance with the

aforesaid scheme.

4. The corporation has not challenged the said part of the impugned order in the present appeal. Its grievance is against the second part of the order, whereby a direction has been given to consider the desirability of payment of arrears salary, if the writ-petitioner had worked during the aforesaid period, within a time limit.

5. According to the appellant, as per the package programme, in accordance with the aforesaid scheme, a Committee was constituted, which recommended that the arrears of salary etc. of the remaining old serving employees be liquidated in a phased manner only after the corporation starts making a net profit without any Government assistance/help directly. It was expected that such situation would come in the year 2001-02. The said recommendation was accepted by the State Government in toto and the Apex Court also passed order dated 10.11.2000 in Civil Appeal No. 7290 of 1994.

6. As per the direction, the corporation was required to verify and ascertain from the records whether the writ-petitioner had actually worked from the year 1994 onward till date of his retirement in the year 1999. If the answer lies in affirmative, then only he was entitled to the arrears of his salary for the aforesaid period. Thereafter the amount of his arrear salary has to be paid strictly in terms of the aforesaid scheme framed by the State Government.

7. At any rate, in our view; the corporation was not in a position to pay the entire arrears of salary of the appellant within the time fixed by the learned Single Judge, due to paucity of funds. Hence, the time limit fixed by the learned Single Judge in the impugned order, for considering the desirability of payment of salary to the writ-petitioner had actually worked during the aforesaid period and if yes, calculate the amount of arrears salary payable and thereafter pay him in the manner such arrears salary shall be paid to other similarly situated employees of the corporation.

8. This appeal is disposed of with modification in the impugned order and direction to the corporation. No cost.