
(2007) 09 PAT CK 0007
In the Patna High Court
Case No : CWJC No. 13320/05

Dr. Manoranjan Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-09-2007

Acts Referred:

Citation : (2007) PLJR 693

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Judgement

Mridula Mishra, J.—Heard the counsel for the petitioner and the State. Simple prayer of the petitioner in this case is for a direction to the respondents No. 2, 3 and 4 to make payment of his salary including annual increment and other allowances for the period of suspension, i.e. for the period 14.11.2000 to 31.1.2003. Petitioner was posted at Deoghar, when criminal Cases bearing R.C. 35(A), 38(A) and 45(A) of 1996 were instituted in which he was not named but his name was subsequently included as accused. When the charge-sheet was submitted petitioner's name was also there in the column of the accused. Petitioner was granted bail in those cases. He was put under suspension by order passed by the Animal Husbandry Department on 14.1.2000 in view of the criminal cases instituted against him. Suspension order was passed in anticipation of initiation of a departmental proceeding but it was never initiated against the petitioner. On completion of 58 years on 31.1.2003 he superannuated from his service.

2. Petitioner's case is that till the date of superannuation there was no departmental proceeding pending against him and he had not been awarded any punishment in criminal cases which are still pending and no final order has been passed in the criminal cases. The petitioner has neither been awarded any punishment in departmental proceeding nor convicted in any of the criminal cases.

3. In these circumstances when he superannuated on completion of 58 years as

per rule the order of suspension automatically revoked and he has become entitled for his salary for the period of suspension.

4. It has also been submitted by the counsel for the petitioner that a Government servant cannot be punished by not paying his salary even though no punishment has been awarded him either in a departmental proceeding or by a criminal court.

5. A counter affidavit has been filed on behalf of the State where it has been stated that involvement of petitioner and others were suspected. They have been charged for extending there co-operation in Animal Husbandary Department scam cases in which very huge amount of public money had been siphoned from the Government exchequer. The petitioner was put under suspension as he was named as accused in criminal cases. In spite of this he was allowed to superannuate in view of the Government decision. Decision of the State Government has been annexed as Annexure-A whereby a resolution has been taken that Government servant under suspension should retire on reaching the age of superannuation irrespective of the question whether enquiries into charges or departmental or judicial proceeding initiated against them have been concluded or not. it has further been decided that the enquiries or proceeding that might have been already started or likely to be taken up against Government servants in future would, however, be continued even after their retirement from Government service in accordance with the procedure laid down in Rule 43(b) of the Bihar Pension Rules. It has been stated in the counter affidavit that departmental proceeding was initiated against the petitioner when he was in service or under Pension Rules after his retirement. For seeking instruction on this point the matter was adjourned and the counsel for the State was directed to file supplementary counter affidavit clearly stating as to whether any proceeding under the provision of the Bihar Pension Rules is pending against the petitioner. No such supplementary counter affidavit has been filed so far.

6. In the given facts and circumstances therein no reason for debarring the petitioner from claiming his arrears of salary for the suspension period. Admittedly no Departmental Proceeding was initiated, while he was in service. There is no pleading that after superannuation proceeding has been initiated under Pension Rules. There is no reason for which the petitioner should not be allowed to receive his salary for the period of suspension. He is entitled for the same as on account of superannuation the order of suspension automatically will deemed to be revoked, giving entitlement to him for getting the salary for period of suspension.

7. The respondents are directed to make payment of petitioner's salary for aforesaid period. The order for payment must be passed within eight weeks from the date of communication of this order. With these observations and directions this application is disposed of.