
(1986) 02 PAT CK 0001
In the Patna High Court
Case No : C. W. J. C. No. 4951 of 1985

Harendra Nath

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-02-1986

Acts Referred:

Citation : (1987) PLJR 581

Hon'ble Judges : S. B. Sanyal, J;S. Ali Ahmad, J

Bench : Division Bench

Advocate : S. K. Katriar and A. K. Sinha, for the Appellant; D. K. Jha (G. A.), for the Respondent

Judgement

1. The prayer in this application was to direct the respondents for issue of necessary paper for payment of pension and gratuity. It is said that the petitioner superannuated with effect from 1st April, 1981 and he was granted 75% of pension by order dated 31.8.81 for two years. By order dated 27.8.1983, he was granted 90% of his pension for two years, but thereafter the petitioner has not been paid anything. The grievance of petitioner is that he has been running to get his pension and gratuity, but no step in that direction is being taken. This application was, therefore, filed on 5th October, 1985 for the relief aforementioned. Keeping in view the fact that superannuated officer must be paid his gratuity and pension at the earliest, we wanted to dispose of the case at the admission stage and with that purpose in view we adjourned it on several occasions to enable the learned State Counsel to get instructions. Mr. Government Advocate in spite of his best efforts could get only partial instruction in the matter on 13.1.86. That was not sufficient for the disposal of the application. We, therefore, passed an interim order directing the respondents to pay Rs. 5,000/- to the petitioner on ad hoc basis which was to be adjusted towards his pension and gratuity. We also on that very day said that the petitioner should be paid interest at the rate of 15% on the amount of pension and gratuity payable to him. In spite of the order Rs. 5,000/- was not paid and

the case was adjourned again to 19.2.86. at the request of Mr. Government Advocate. We are informed today that Rs. 5,000/- as directed by our order dated 13.1.1986 has now been paid. Mr. Government Advocate further says that the delay in finalisation of the pension and payment of gratuity to the petitioner was on the basis of the fact that there was a proposal to start a departmental proceeding against the petitioner. He says that now on account of lapse of time, it is not possible to and, therefore, the idea of starting a proceeding has been dropped. Mr. Katriar at this stage says that the instruction with regard to initiation of a proceeding received by Mr. Government Advocate is not correct. He says that the petitioner has a clean record of service and there is no scope for initiation of any proceeding. Be that as it may, Mr. Government Advocate says that he has been assured by the Food Commissioner that the gratuity and pension along with arrears payable to the petitioner will be finalised within a period of three months from today after adjusting Rs. 5000/- which has been paid to the petitioner on ad hoc basis. With regard to the interest Mr. Government Advocate says that steps have been taken to fix responsibility for the delay in finalisation of the pension. He therefore, says that the order for payment of interest as directed by our order dated 13.1.1986 may be recalled. We are sorry, that cannot be done. We had passed definite order for payment of interest on 13.1.1986. We appreciate the fact that this will be an unnecessary burden on the State Exchequer. But if the authorities so desires, they can recover this amount from the person responsible for such delay. The interest, therefore, as directed must be paid to the petitioner at the rate of 15% which will run with effect from the date of filing of this writ application, i.e. 5.10.1985. The writ petition is thus disposed of.

2. Let a copy of the order be given to Mr. Government Advocate for communication to concerned authorities.