
(2015) 09 PAT CK 0016

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1913 of 1989

Hem Chandra Kumar and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-09-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 09 PAT CK 0016

Hon'ble Judges : I.A. Ansari, A.C.J; Chakradhari Sharan Singh, J

Bench : Division Bench

Advocate : Ashok Kr. Singh, Senior Advocate, Manisha Singh and Prem Ranjan, for the Appellant; Ajay Bihari Sinha, Purnendu Kumar Singh, Raju Giri and Prabhat Kumar Singh, Advocates for the Respondent

Final Decision : Allowed

Judgement

Chakradhari Sharan Singh, J—Heard Mr. Ashok Kumar Singh, learned Senior Counsel, appearing on behalf of the petitioners, and Mr. Purnendu Kumar Singh, learned Counsel for the State. Heard also Mr. Ajay Bihari Sinha, learned Counsel, appearing on behalf respondents 2 and 3, Mr. Prabhat Kumar Sinha, appearing on behalf of respondent No. 4 and Mr. Raju Giri, learned Counsel, appearing on behalf of respondent No. 5.

2. This writ application was filed in the year 1989 under Article-226 of the Constitution of India seeking direction to the respondents for payment of arrears of salary for the period "April, 1985 to October, 1986" and difference of dearness allowance from 1980 to October, 1986.

3. No dispute has been raised on behalf of the respondent University or the State of Bihar as regards petitioners' entitlement to the aforesaid arrears of salary and dearness allowance, direction for payment of which they have sought in the present writ application.

4. A supplementary counter affidavit has been filed on behalf of the respondent

University stating therein that after the fund having been made available by the State of Bihar to the University, the petitioners have now been paid the entire arrears, as were found admissible to them.

5. Learned senior Counsel, appearing on behalf of the petitioners, does not dispute the factual position that the principal amount, which the petitioners were entitled to by way of arrears of salary, and dearness allowance have now been paid to them. He, however, submits that, indisputably, the amount remained unpaid for long period of nearly three decades, without any fault on their part. He, therefore, submits that there should be direction by this Court for payment of interest, on the amount which the petitioners were admittedly entitled to receive for the period in question. He has relied upon a Division Bench decision of this Court, reported in *Ram Sumer Ahair Vs. The Union of India (UOI) and Others* in support of his submission that at least 12% interest per annum should be awarded for the delayed payment of the admitted dues.

6. We find substance in the submission made by the learned senior Counsel, appearing on behalf of the petitioners. There appears to be no justifiable reason available on record for delay of nearly thirty years, in making payment of arrears which the petitioners were legally entitled to receive and, therefore, in our considered view, are entitled for a direction from this Court for payment of interest at a reasonable rate on the amount which remained unpaid for all these years, from the date of institution of the writ application.

7. We, in the facts and circumstances of the case, and having considered the materials/pleadings on record in entirety, consider it appropriate to direct that the petitioners shall be paid interest at the rate of 7% per annum from the date of institution of the writ application, i.e. 15.2.1989, till the date of actual payment made to them. Such interest must be calculated by the University within a period of one month from the date of receipt/production of a copy of this order and the entire amount must be paid to them within a period two months, thereafter. It will be open to the University to request the State Government for release of fund for payment of amount of interest.

8. If such request is made, the State Government will be required to promptly respond and release necessary funds to the University, for compliance of the present order.

9. This writ application accordingly stands allowed with the directions as above.