

(2013) 11 JH CK 0009
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1310 of 2012

Ishwar Prasad Tiwari

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-11-2013

Acts Referred:

Citation : (2014) 1 AJR 247 : (2014) 1 JLJR 113

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : S.K. Tiwari, for the Appellant; S. Srivastava and JC to GP IV, for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the petitioner as well as State and Accountant General. The petitioner is said to have retired on 30.4.2002 while working as a Panchayat Sewak from Kandi Block under Garhwa district. The grievance of the petitioner is that his final pension has not been fixed as also the other post retirement benefits such as gratuity, leave encashment, GPF and benefit of financial upgradation has not been given to him.

2. The petitioner claims to have been appointed as such by an order dated 23.3.1961 and joined on 29.3.1961 on the same post of Panchayat Sewak. It is contended on behalf of the petitioner that during his service career he was placed under suspension for the period 1.9.1976 to 26.4.1989 and he was reinstated in 1989. Further he was placed under suspension for the period from 8.5.1992 till 27.6.1996. Thereafter, his suspension was revoked and was again reinstated in service. It is submitted that the petitioner had been paid subsistence allowance only for the aforesaid period of suspension earlier. After ten years of the retirement of the petitioner, however, the respondents have taken a decision to grant his salary for both the period of his suspension by orders as contained in memo. No. 331 dated 1.8.2012 and memo. No. 255 dated 2.8.2012 issued by the Deputy Commissioner, Palamau as contained in

Annexures A and B to the counter affidavit filed on behalf of the respondent No. 7, Deputy Commissioner, Garhwa.

3. Learned counsel for the petitioner submits that though a direction has been issued in the said order itself to ensure payment of difference of salary for the period of suspension but the same have not yet been carried out by the competent authority. In such circumstances, learned counsel for the petitioner submits that the petitioner's final pension and other post retirement dues are also to be calculated and paid to him, which is due till date.

4. Learned counsel for the State, who has filed the said affidavit on behalf of the respondent No. 7, also submits that a decision to pay full salary for the period of suspension as aforesaid has been taken by the respondent-Deputy Commissioner by orders as contained in Annexures A and B to the said counter affidavit.

5. Having heard learned counsel for the parties, in such circumstances, this writ petition is being disposed of at this stage, with liberty to the petitioner, without making any comment upon the merit of the case of the petitioner, to approach the respondent No. 8, District Panchayati Raj Officer, Garhwa for redressal of the aforesaid grievances relating to payment of outstanding dues of post retirement benefits including the final pension as also for the salary for the period of his suspension i.e. 1.9.1976 to 26.4.1989 and 8.5.1992 to 27.6.1996 by filing a representation supporting with all necessary facts and documents. On receipt of such representation the respondent No. 8 shall consider the same in accordance with law after due consideration of the relevant records of the petitioner and take an informed decision by passing a reasoned and speaking order within 12 weeks thereafter, which shall also be communicated to the petitioner. On such decision, if necessary, sanction order may be issued in favour of the petitioner to the office of the Accountant General, respondent No. 4 for issuance of authority slip in favour of the petitioner for payment of pension and gratuity amount. Needless to say that on such determination of respondent No. 8 the post retirement dues and other service dues shall be released in favour of the petitioner expeditiously, preferably within a period of 10 weeks thereafter with statutory interest, if any. This writ petition is, accordingly, disposed of in the aforesaid manner.