

(1995) 07 PAT CK 0038
In the Patna High Court
Case No : C.W.J.C. No. 4033 of 1994

Jailal Choudhary "Matwala" APPELLANT
Vs
The State of Bihar and Others RESPONDENT

Date of Decision : 17-07-1995

Acts Referred:

Citation : (1995) 2 PLJR 553

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Mayanand Jha, for the Appellant; K.K. Mndal, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The Petitioner filed the instant writ petition for direction to the Respondents for the payment of arrears for the following periods, namely,:

- (i) Salary for the period from 1st August, 1987 to 23rd September, 1988;
- (ii) Salary for the period from 24th June, 1989 to 23rd July, 1989;
- (iii) Salary for the period from 16th May, 1991 to 15th June, 1991;
- (iv) Salary for the period from 1st March, 1991 to 2nd January, 1992;
- (v) Salary for the period from 3rd January, 1992 to 16th December, 1993; and
- (vi) Salary for the period from 17th December, 1993 up-to-date.

The admitted facts of the case are as follows:

The Petitioner is a substantive holder of the post of Executive Engineer under the Road Construction Department. At present the Petitioner is holding charge of the higher post of Superintending Engineer in the said Department. During the period from 1st August, 1987 to 23rd September, 1988, Petitioner was sent on deputation but was not given specific posting. As the Petitioner was awaiting for posting, salary of the aforesaid period was not paid.

2. For the period from 24th June, 1989 to 23rd July, 1989 and the period from

16th May, 1991 to 15th June, 1991, the Petitioner was on deputation in the Rural Development Department but took earned leave, being ill for the said period which leave has been allowed, but the Petitioner has not been paid any salary, on allowing earned leave for the said period.

3. So far as the period from 1st March 1991 to 2nd January, 1992 is concerned, the Petitioner was not paid his salary as the pay slip for the said period was not issued in favour of the Petitioner by the Respondents.

4. So far as the period from 3rd January, 1992 to 16th December, 1992 is concerned, the Petitioner was suspended on 3rd January, 1992 but the suspension order was revoked on 16th December, 1993. Thereafter in the departmental proceeding, the Petitioner was exonerated but the full salary of the aforesaid period has not been released by the Respondents.

5. For the period from 17th December, 1993 up-to-date, though the Petitioner is functioning, he is not being paid his salary.

6. Counter affidavit has been filed by Respondent Nos. 3 and 4. Counsel for the State accepted that the Petitioner is entitled to full salary for the period aforesaid. It was submitted by the counsel for the State that only because of some sort of instruction given by the Finance Department to treat the period during which the Petitioner awaited for posting as a period on leave, the salary for the said period has not been released. The Rural Development Department has written the Finance Department for release of such salary, as the Petitioner was awaiting for posting. So far as the subsequent period is concerned, counsel for the State submitted that the matter is pending consideration before the Finance Department and for the said reason the dues have not been paid by the Respondents.

7. Having heard the parties, I direct the Respondents to provide the Petitioner with the following benefits immediately within a period of three months from the date of receipt/production, of a copy of this order:

(1) The Petitioner be paid full salary for the period from 1st August, 1987 to 23rd September, 1988;

(ii) The Respondents should decide the period from 24th June, 1989 to 23rd July, 1989; and 16th May, 1991 to 15th June, 1991 as to whether the said period will be treated against earned leave or not and on such decision, pay the arrears of salary for the aforesaid period;

(iii) To pay the salary for the period from 1st March, 1991 to 2nd January, 1992; if necessary issue pay slip;

(iv) Pay full salary for the period of suspension i.e. from 3rd January, 1992 to 16th December, 1993 adjusting the subsistence allowance already paid to the Petitioner:

(v) To pay the Petitioner immediately the due salary for the rest of the period i.e.

from 17th December, 1993 up-to-date whatever is due to the Petitioner in accordance with law; and,

(vi) To pay the Petitioner an interest @ 8 per cent on the aforesaid due amount. The interest is to be calculated till the same is paid in favour of Petitioner.

8. The writ petition is disposed of with the aforementioned observation/direction.