
(2003) 04 PAT CK 0040
In the Patna High Court
Case No : C.W.J.C. No. 1605 of 2003

Kanhaiya Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-04-2003

Acts Referred:

Citation : (2003) 3 PLJR 302

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Gyan Prakash, for the Appellant; Gopal Krishna, for State and Anjani Kumar Sharan, for Accountant General, for the Respondent

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, Petitioner is aggrieved on account of denial of dearness allowance on family pension during the period from 27.12.1995 to 31.5.1997 admissible to the Petitioner after the death of his wife, who while posted as Assistant teacher at Rajendra Collegiate School, Chapra died in harness on 26.12.1995 and the Petitioner being spouse started getting - my pension under PPO No. S/87194. Petitioner was appointed as Lower Division Clerk on 27.10.1960 in Saran p(sic)ectorate and after attaining the age (sic) of years retired as Head Clerk with effect from 1.6.1997 from District Planning Department, Chapra.

2. It appears that the State Government with reference to the decision of this Court in the case of Smt. Yasoda Devi and Braj Nandan Prasad issued instruction on 4.2.2002 vide Annexure-1 that dear-cess allowance on family pension is payable if spouse of the deceased is independently employed. Thereafter the Petitioner represented the Treasury Officer, shapra for payment of dearness allowance on family pension and he was paid he same with effect from 1.6.1997 i.e. the sate of his own superannuation, and the payment for the period prior thereto i.e. 7.12.1995 to 31.5.1997 has been denied.

3. It is submitted by the learned Counsel for the Petitioner that despite the law (sic)ing settled long back and the Government decision contained in Annexure-1, (sic) Jreasury Officer, Chapra (Respondent (5) has malafide and arbitrarily kept the Petitioner deprived of the dearness allow(sic)ce on family pension for the aforemen(sic)ned period i.e. 27.12.1995 to 31.5.1997 (sic)eems that the Petitioner filed represen(sic)on before the Treasury Officer on (sic)08.2002 for payment of dearness allow(sic)ce on family pension for the said period (sic) Annexure-2 annexing a copy of the (sic)gent Court and also of the (sic) ex(sic)Court, but, he has not bothered to (sic)pond, so much so, that he has not (sic)hered to respond even to the notice of writ petition up-till now. This shows petitionss callousness on the part of the Treas-(sic) Officer (Respondent No. 5) in dealingin such claim of a retired person and for which cost must be awarded against him to be paid by him from his pocket.

4. Writ application is, thus, allowed with cost of Rs. 2,000/- to be paid by Treasury Officer (Respondent No. 5) from his pocket to the Petitioner and receipt in token thereof must be filed in this Court within a week. Respondent No. 5 is further directed to pay the entire dearness allowance on family pension for the period 27.12.1995 to 31.5.1997 within a week, failing which he shall be liable to pay a further cost of Rs. 1,000/- from his pocket to the Petitioner and the Petitioner will be at liberty to file two pages affidavit for revival and for taking appropriate action.

5. As prayed by learned Counsel for the State, let a copy of this order be supplied to him for its strict compliance.