
(2015) 02 PAT CK 0115
In the Patna High Court
Case No : CWJC No. 562 of 2014

Kapileshwar Prasad Rai

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-02-2015

Acts Referred:

Citation : (2015) 4 PLJR 665

Hon'ble Judges : Mihir Kumar Jha, J.

Bench : Single Bench

Advocate : Arvind Kumar Sinha, for the Appellant; Satya Deo Kumar, for the Respondent

Final Decision : Disposed Off

Judgement

Mihir Kumar Jha, J.—Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:--

"1.-----directing upon the respondents to make the payment of post retiral dues along with admissible dues with statutory and penal interest which ever is applicable."

Learned counsel for the petitioner has explained that even when the petitioner had retired way back on 31.1.2006, his retirement benefit has not been settled and paid in a period of nearly eight years and thus this writ application has been filed by him seeking a direction for payment of retirement benefit to the petitioner.

2. Let it be noted that this case was adjourned on 2.9.2014, 20.10.2014, 19.11.2014 and 18.12.2014 but the counter affidavit, despite repeated indulgence given to the respondents, was not filed. In such a situation, this Court by an order dated 3.2.2015 had directed for personal appearance of the District Education Officer, Samastipur and District Programme Officer (Establishment), Samastipur.

3. Today they have appeared in person and have filed their supplementary counter affidavit explaining that the order for payment of provisional pension and gratuity has been passed yesterday and the petitioner is likely to get its payment from the treasury within a short period. They have also informed this Court that the papers for finalization of full and final pension have also been sent to the office of the Accountant General and, therefore, the petitioner's grievance now stands redressed.

4. This Court would find the approach of the District Education Officer (Establishment), Samastipur and District Programme Officer (Establishment), Samastipur to be wholly casual, irrational and harassing. Had this Court not passed the order dated 3.2.2015 directing for their personal appearance, probably the petitioner would not have been sanctioned the amount of provisional pension and provisional gratuity. There is no explanation whatsoever for such a huge delay of more than a period of nine years in not making payment of retirement benefit of the petitioner. The only explanation which comes from the District Education Officer, Samastipur is that he has recently joined the post at Samastipur and, therefore, when the papers were placed before him he has taken the appropriate steps.

5. This Court simply would not buy such useless explanation from an irresponsible officer like the present D.E.O., Samastipur. The question is if he is the head of the department for the purpose of sanctioning and making recommendation to the Accountant General for authorizing pension, he must have before him the complete broad-sheet of the teachers and employees who have retired, to ensure that not a single teacher of Samastipur district whose pension and other retiral benefits has to be sanctioned under his order for its being sent to the Accountant General remains pending for a period of more than one month at his level. No officer can just take a defence that since he has joined the post recently, he would not be answerable for the deeds and misdeeds of his predecessor in the office.

6. The question in fact then would be, has the present D.E.O., Samastipur made a complaint with regard to inaction of his predecessor that they had failed in their duty in sanctioning the pension of the petitioner? At least, there is no such explanation in the counter affidavit to this effect and, therefore, this Court would hold the present District Education Officer, Samastipur along with his predecessors in the office since 1.2.2006 to be responsible for not allowing the petitioner to get payment of his full and final retirement benefit.

7. This Court would, accordingly, direct the District Education Officer, Samastipur to not only ensure that whatever amount has been sanctioned by him towards the provisional pension and gratuity of the petitioner is paid to the petitioner at his initiative from the treasury but also that he will also personally coordinate with the office of the Accountant General to ensure that the full and final pension and gratuity is authorized by the office of the Accountant General within a period of one month from the date of receipt of this order.

8. This exercise of making full and final payment of all amount of retirement benefit to the petitioner must be completed by all concerned including the District Education Officer, Samastipur and the officer of the Accountant General as also any other government officer including the Treasury Officer, Samastipur by ensuring payment of all retirement benefit of the petitioner within a period of two months from the date of receipt of this order.

9. It goes without saying that since delay in payment of the retirement benefit of the petitioner is totally attributable to the District Education Officer, Samastipur, he will be also liable to pay interest from his pocket on the amount of retirement benefit at the rate of 5% per annum for the period of February 2006 and till the date of payment as per the notification of the Finance Department being Notification No. 3155 dated 7.11.1981. The present D.E.O. having paid such amount of interest from his pocket to the petitioner would be at liberty to realize the same on proportionate basis from his predecessors in office who had been posted as D.E.O., Samastipur since February 2006 or any one other erring officer and/or employee found responsible for causing delay in making payment of retirement benefit to the petitioner.

10. With the aforementioned observation and direction, this application is disposed of.

11. The personal appearance of Mr. Brajesh Ojha, District Education Officer (Establishment), Samastipur and Mr. Ramchandra Mandal, District Programme Officer (Establishment), Samastipur is hereby dispensed with.

12. Let a copy of this order be sent to the Principal Secretary, Education Department for issuance of an order by him to all the concerned district head of Education Department to ensure that no case for retirement benefit is kept pending at their level beyond a period of one month from the date of retirement of the concerned teacher/employee as also their becoming personally liable to pay interest from their own pocket on account of delay caused by them in sanctioning personal and/or final pension and other retirement benefit. The Principal Secretary, Education Department shall also be under personal obligation to submit an action taken report to this Court within a period of two months from the date of receipt of this order by (sic).