

(2006) 06 PAT CK 0055
In the Patna High Court
Case No : C.W.J.C. No. 10007 of 2002

Mahadeo Prasad Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 15-06-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 3 PLJR 235

Hon'ble Judges : J.N. Bhatt, C.J

Bench : Single Bench

Advocate : S. Azeem and Indu Bhushan, for the Appellant; A.K. Mishra, J.C. to SC 16, for the Respondent

Final Decision : Allowed

Judgement

J.N. Bhatt, C.J.—Upon the matter being called out, learned Counsels for the parties are present and upon a joint request the matter is taken up for final hearing.

2. By this petition under Article 226 of the Constitution of India, the petitioner has sought a direction against the respondents to make payment of arrears of salary of the petitioner for the work done during the period from May, 1995 to November, 1998 which comes to a total amount of Rs. 1,78,693/-, which is elaborately stated in annexure 1 to the petition, with interest and, also, the arrears of difference of salary of Rs. 89,533/- as stated, in annexure 2.

3. Learned Counsels for the parties are heard and the factual profile is examined. Counter affidavit is, also, considered.

4. The following facts have emerged undisputedly in this petition which may be highlighted at this juncture:

(1) The petitioner was serving under Bihar Water Development Corporation(Corporation).

(2) In the year 1998 his services were taken over by Tubewell Wing, Minor Irrigation (Tubewell) Department by letter No. 1805 dated 26.9.1998.

(3) Thereafter, he was posted in Tubewell Sub-division, Lakhisarai under Tubewell Division, Munger.

(4) The claim of the petitioner of Rs. 1,78,693/- pertains to the period from May 1995 to November, 1998.

(5) The liability has been taken over by the Government of the employees of the erstwhile Corporation.

(6) The pensionary benefits are, also, paid to the petitioner by the Government after his retirement in 2002.

(7) The Government in the counter affidavit has only stated that the liability is yet to be examined and there is financial difficulty as it is not a budgeted item despite the fact that eight years have passed.

(8) The erstwhile Corporation had, also, own administration and it was being financed by the Government as it was a State of Bihar undertaking and consequently the liability is, also, accepted by the Government. Therefore, the full liability for payment of arrears of salary is, also, on the shoulder of the Government.

(9) It is not understood as to why arrears of salary during the aforesaid period are not paid when difference of salary for the said period has already been paid?

(10) It is nothing but a gross indifference-ness and apathetic attitude of the Government and, therefore, interest is, also, required to be paid by the Government for unduly long delay in payment of arrears of salary for the period of last eight years.

5. Nothing is brought on record to show as to what is the finding or result of the Liability Committee even after eight years and there cannot be any other view than the liability to pay since difference of salary during the same period is paid and the arrears of salary has remained unpaid.

6. Taking into consideration the aforesaid aspects and over all facts emerging from the record of the present case, there is no doubt in the mind of this Court that respondent No. 1 The State of Bihar through the Secretary-cum-Commissioner, Minor Irrigation Department, respondent No. 2, ought to have discharged the liability by making payment within the reasonable period of time which is not done and the sufferer is the poor employee who has retired in 2002. Therefore, respondents 1 and 2 are liable to make payment of the aforesaid amount with reasonable amount of interest within a stipulated time in the light of the admitted facts emerging from the record.

7. Accordingly, respondent No. 1 The State of Bihar through the Secretary-cum-Commissioner, Minor Irrigation Department, respondent No. 2 shall pay an

amount of Rs. 1,78,693/- being arrears of salary for the period between May 1995 to November, 1998 the liability of which the Government has accepted while taking over the erstwhile Corporation with interest at the rate of 9 per cent from the due date till the date of payment and the same shall be paid within a period of three months from today, failing which, it will be open for the petitioner to move this Court for further directions including for contempt. It is clarified that in case the Government makes payment within three months the rate of interest on the arrears of salary will be 8 per cent.

8. In the result, this petition shall stand allowed with cost which is quantified at Rs. 5,000/-.

9. Rule is made absolute.

10. A copy of this order is directed to be transmitted by the Registry to respondent No. 2, expeditiously, for implementation of this direction.