
(2000) 05 PAT CK 0076
In the Patna High Court
Case No : C.W.J.C. No. 9084 of 1998

Mazibur Rahman Mansoori

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-05-2000

Acts Referred:

Citation : (2000) 3 PLJR 490

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Sanjeev Kumar Mishra, for the Appellant; R.P. Bhagat, Sudhir Kr., Subhash Prasad Singh for Accountant General, R.J. Ojha and K.P. Yadav for Board, for the Respondent

Judgement

Radha Mohan Prasad, J.—In this writ petition though the Petitioner superannuated on 31.1.1995 from the service of the Bihar State Agriculture Marketing Board (hereinafter referred to as "the Board") while working as Assistant Director, he has not (sic-been?) paid his post retiral dues despite several orders passed earlier by this Court in different writ petitions. The Petitioner has filed the present writ petition seeking appropriate direction to the Respondents for payment of the same.

2. It seems that the Respondent-Board passed order dated 26.9.1998 as contained in Annexure "F" to the supplementary counter affidavit, according to which certain amounts have been found to be recoverable from the Petitioner such as a sum of Rs. 2780 as against excess salary drawn by him from 1.9.1991, Rs. 29,215/- as against the salary which is alleged to have been drawn from two places of his posting from February, 1993 to June, 1993 and a sum of Rs. 65,147/- pursuant to the audit report which found him and one Junior Engineer responsible for committing fraud in the matter of purchase of hand-pump.

3. This matter was heard on several occasions and vide last order dated 10.5.2000 this Court directed the Respondent-Board to produce relevant files relating to all the three amounts sought to be recovered/adjusted from the

pensionary dues of the Petitioner. These relevant files have been produced but the Respondent-Board have not been able to explain about the said amounts which are to be recovered from the Petitioner. In any view of the matter a sum of Rs. 1,32,694/- has been deducted from the pensionary dues of the Petitioner which was payable by the State Government for the period when he rendered service under the State Government pursuant to the instruction of the Board.

4. According to Mr. Ojha, learned Counsel appearing for the Respondent-Board, Rs. 1,30,394/- was to be recovered from the Petitioner for the irregularities committed by him in the matter of purchase of hand-pumps and Rs. 2400/- was to be recovered from him on account of excess withdrawal towards Travelling Allowance. He submitted that later the Board decided to recover only a sum of Rs. 65,147/- which is half of the amount relating to hand-pumps and a sum of Rs. 2400/- towards excess amount of Travelling Allowance drawn by him. However, the Board further found that the amounts of Rs. 37,480/- and Rs. 29,215/- are also to be recovered from the Petitioner. Lastly he submitted that after examining the records he has been instructed that out of a sum of Rs. 29,215/- a sum of Rs. 2,875/- is only recoverable, as the rest amount has been returned by the Petitioner. In this regard he referred to Annexure "4/A". Thus, a total amount now to be recovered from the Petitioner is Rs. 40,355/- and admittedly the Board has to pay a sum of Rs. 57,120/- towards his pensionary dues besides the remaining amount of G.P.F. and Rs. 65,147/- which has been realised from him by the State Government earlier. Accordingly the Board is still required to pay a sum of Rs. 81,912/- to the Petitioner towards his post retiral dues besides the remaining amount of G.P.F. as has been admitted by the learned Counsel for the Board.

5. The learned Counsel for the Petitioner has submitted that the Board may be directed to pay the aforesaid amount and the Director, Provident Fund may also be directed to pay the remaining amount of G.P.F. with up-to-date statutory interest along with details of calculation chart relating to G.P.F. He further submitted that the said payment shall be received by the Petitioner without prejudice to his right to raise any dispute with respect to the recoveries which are being made by the Respondent-Board. He also submitted that in view of the admitted fact that the amount of Rs. 81,912/- which is payable to the Petitioner, has been kept withheld since 31.1.1995 it is a fit case in which this Court should consider to award penal interest and cost in the facts and circumstances of the case. This Court finds substance in the submission of the learned Counsel for the Petitioner. There being no dispute that the Petitioner was entitled to get Rs. 81,912/- as on the date of retirement, i.e. 31.1.1995 there was no justification for the Board to keep the said amount withheld for over five years. The amount which was recoverable according to the Board, only could have been withheld and the rest should have been paid. Under such circumstances, in my opinion, it is a fit case for awarding penal interest at the rate of 10% per annum on the amount of Rs. 81,912/- from the due date till the payment is made. The Respondents are accordingly, directed to pay the said amount of Rs. 81,912/-

with interest within one week from today. In the facts and circumstances of the case the Petitioner shall also be entitled for cost of Rs. 2000/- (two thousand) which shall also be paid within the aforesaid time.

6. As agreed, the Board is directed to supply a copy of the audit report to the Petitioner within one week and the Petitioner may raise his objection, if any, to it or in respect of other recovery, by filing a representation within two weeks of the receipt of the audit report. The Managing Director of the Board shall personally or through some authorised responsible officer will accord opportunity to the Petitioner to examine the record. On examination of record the Petitioner may file further representation within one week and the Managing Director shall consider the same and dispose it of by a reasoned order within four weeks thereafter. The Managing Director is also directed to pay the further amount, if any, found payable to the Petitioner within the aforesaid time.

7. The writ application is, accordingly, disposed of with the aforesaid direction. In the circumstances of the case, however, there shall be no order as to costs.