
(2006) 02 PAT CK 0082
In the Patna High Court
Case No : LPA No. 153 of 2006

Md. Izharul Haque

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-02-2006

Acts Referred:

Citation : (2006) 2 PLJR 394

Hon'ble Judges : J.N. Bhatt, C.J;S.N. Hussain, J

Bench : Division Bench

Advocate : Harendra Pratap Singh, for the Appellant; Rajeshwar Prasad, for the Respondent

Final Decision : Dismissed

Judgement

1. After having heard learned counsel for the parties and perused the grounds stated in the application for condonation of delay, we are satisfied that there was sufficient cause for not filing the appeal within time. The application for condonation of delay, therefore, shall stand allowed and the delay in filing the appeal shall stand condoned. Rule is made absolute. No costs.

2. The original petitioner has challenged the order of the learned Single Judge dated 21.12.2005 in C.W.J.C. No. 11114 of 2003 Reported in 2006(2) PLJR 112, whereby, the petition came to be dismissed finding no merits therein. By invocation of the provision of Clause 10 of the Letters Patent the original petitioner has come up in this Letters Patent Appeal challenging the legality and validity of the impugned order.

3. The writ petition came to be instituted for a claim of post retirement benefits on the basis of the service period from November, 1951 to December, 1972 and the petitioner did not desire the credit for the period between 1.1.1973 to 31.1.1992 during which he was continuously absent from service. The learned Single Judge initially in the earlier petition directed for filing a representation and a representation was made before the concerned authority, the Chief Medical

Officer-cum-Civil Surgeon, Rohtas. The Chief Medical Officer-cum-Civil Surgeon passed an order dated 9.7.2005, rejecting the request of the petitioner for interest on the amount of pension and gratuity allowed to the petitioner as a result of which the claim for interest was further pursued before the Writ Court, unsuccessfully. The learned Single Judge has refused to give benefit of the alleged claim for interest on the delayed payment in the light of the peculiar facts and circumstances leading to the factum that the petitioner himself had remained absent for long 19 years and not prayed for any interest in the earlier writ petition, wherein, direction was given for filing a representation.

4. It is in this context, we have given our anxious thoughts and consideration to the matter. Ordinarily, yes, any payment due and payable to the retiree for no fault of his own must carry an interest as the Master cannot be permitted to retain such amount due and payable to the employee without any sufficient cause and placing him in an unjust status. Even by resolutions or circulars the Government have resolved earlier for payment of interest on the delayed payment of retiral dues. We are mindful in a given good case that an interest has to be paid so that the retiree does not suffer for no fault of his own and for lethargic indifference on the part of the mechanism or the management an interest can be awarded. However, this principle ordinarily will not govern the case on hand for the simple reason that since the petitioner himself apart from technical aspect that he had not raised any claim for interest in the first writ petition filed before this Court, he had remained absent from his work for long spell of 19 years, he could not be paid interest for his own act of omissions and commissions. The view taken by the learned Single Judge is quite weighty and justified requiring no interference in exercise of our powers in terms of the provision of Clause 10 of Letters Patent. Hence, this Letters Patent Appeal shall stand summarily dismissed at the threshold.