
(2000) 03 PAT CK 0159
In the Patna High Court
Case No : C.W.J.C. No. 4391 of 1998

Naresh Kumar and Others APPELLANT
Vs
The State of Bihar and Others RESPONDENT

Date of Decision : 10-03-2000

Acts Referred:

Citation : (2001) 3 PLJR 158

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Kamalapati Singh and Manojeshwar Prasad Sinha, for the Appellant;
R.K. Choudhary, for State, for the Respondent

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition the Petitioners have sought for issuance of an appropriate writ, order or direction commanding the Respondents to pay them their post retirement benefits, including pension, gratuity, salary for unutilised earned leave and arrears of salary in the pay scale of Rs. 1,400-2,300 to which they are legally entitled.

2. It appears that the dispute with respect to fixation of pay of the Petitioners and other similarly situated persons were agitated before the Labour Court, Purnea in Misc. Case No. 1 of 1994 and the Labour Court on detail consideration vide its Award dated 24.3.1995, contained in Annexure-1, held that reduction of scale from Rs. 1,400-2,300 to Rs. 1,200-1,800/- with effect from August, 1992 was wrong and in contravention of the rules. Accordingly, the Labour Court held that the recovery made from the Petitioners was contrary to law and further directed for payment of the said amount. However, in the meanwhile, the Petitioners superannuated from service and since thereafter they have been kept deprived of the pensionary benefits by raising unnecessary dispute as regards the fixation of their salary.

3. It is not the case of the Respondents that they ever challenged the validity of

the Award, contained in Annexure-1. However, it has been submitted by the learned Counsel for the State that the Award of the Labour Court with respect to the Petitioners, who were employed in Water Resources Department, was not binding upon the State and said Labour Court had no jurisdiction to entertain this miscellaneous case in view of the fact that the said Department is not an industry. In support of this, learned Counsel for the State has placed reliance on the decision of this Court in the case of Kosi Project Workers Union v. State of Bihar and Ors. (L.P.A. No. 884 of 1996) in which it has been held that the Industries Department is not an industry.

4. This Court fails to appreciate the said submission of the learned Counsel for the State. It is by now well settled that judgment and award so long not set aside by higher court binds the party and the Respondents cannot be allowed to take such plea to deprive the party of the benefit of said award to which they were party. In any view of the matter, this Court dealing with the same Award in the case of Chhangur Lal Gupta Vs. The State of Bihar and Others, held that the Respondents are not justified in acting contrary to the Award given by the Labour Court and passing orders for recovery of the alleged excess salary paid to the Petitioner of the said case and consequently fixing the pension against the Award given by the Labour Court. Accordingly, this Court allowed the said writ petition and quashed the orders impugned therein for making recovery and the Respondents were directed to issue authority slip for payment of the entire dues of the Petitioner within two weeks of the receipt/production of a copy of the order.

5. Accordingly, this writ petition is allowed. The Respondents are directed to issue necessary sanction order for payment of entire remaining post retiral dues of the Petitioners on the basis of the salary determined by the said Award of the Labour Court within two weeks of the receipt/production of a copy of this judgment/order.