
(2014) 02 JH CK 0035
In the Jharkhand High Court
Case No : W.P. (S) No. 2358 of 2012

Om Prakash

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2014) 141 FLR 1033 : (2014) 2 JLJR 273 : (2014) 3 LLJ 395

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Prashant Pallav, Advocate for the Appellant; Ravi Kerketta, J.C. to G.P. IV, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Shree Chandrashekhar, J.—The petitioner has approached this Court seeking a direction upon the respondents for fixing his pension in the revised scale and for payment of Pension, Gratuity, Earned Leave etc. A further prayer for seeking regularisation of the suspension period of 22.07.2003 to 19.03.2005 has also been made. The petitioner was initially appointed on the post of Supervisor on 07.06.1972 at Chilling Plant, Barauni. He superannuated from service on 31.12.2006 from the post of Manager, Animal Husbandry Department, Dairy Directorate, Bundu. It appears that an enquiry was conducted into the allegation of unadjusted advance taken by the petitioner during the year, 1992-93 and the enquiry report dated 22.04.2004 was submitted. Another enquiry was conducted in the matter and enquiry report was submitted on 15.09.2006. The provisional pension to the petitioner was fixed and the petitioner was paid 90% of the provisional pension from June, 2008 to February, 2013 and after March, 2013 the provisional pension has also not been paid to the petitioner.

2. A counter affidavit has been filed taking a stand that several show-cause notices were issued to the petitioner however, the petitioner did not respond and an amount of Rs. 2,70,416/- has remained unadjusted and therefore, the final pension of the petitioner has not been fixed and though, the amount of Group

Insurance and General Provident Fund have been paid to the petitioner, the pension Gratuity and Leave Encashment on account of the pay revision would soon be paid to the petitioner. Paragraph Nos. 18 and 22 of the counter-affidavit are extracted below:

18. That in reply to the statement made in para-9 of the writ application, it is humbly stated and submitted that the decision on the unadjusted vouchers of the advance taken by the petitioner is still to be taken, however, the arrear of revised scale, the difference in pension, the gratuity and leave encashment which accrued to the petitioner on account pay revision shall be paid to the petitioner.

22. That in reply to the statement made in para-12 of the writ application, it is humbly stated that the matter of unadjusted vouchers has not yet been settled, as the petitioner has not deposited the sum of Rs. 85,945/- + 12% interest amount. Thus the regularization of suspension period and difference for salary could not be decided.

3. The learned counsel appearing for the petitioner has submitted that though it is recorded in the enquiry report itself that the petitioner produced vouchers for the advance given to him, and two enquiries have been conducted into the matter, the final pension and other retiral benefits to the petitioner have wrongly been withheld by the respondent-authorities. Referring to letters dated 30.11.2006, 03.08.2007, 30.04.2010 and 25.10.2010, the learned counsel for the petitioner has submitted that the respondent-authorities have indicated different amounts, which still have not been adjusted and on that ground alone, the pension to the petitioner has been withheld. The learned counsel for the petitioner has further submitted that though the unadjusted advance relates to the period 1992-93, no step was taken by the Department till the year, 2004 and now it appears that while letter dated 25.10.2010 an interest @ 12% on the alleged unadjusted advance has been ordered to be recovered from the petitioner, which cannot be sustained in law.

4. Mr. Ravi Kerketta, the learned counsel appearing for the respondents, has submitted that since the amount of Rs. 85,945/- alongwith 12% interest, which comes to Rs. 2,70,416/- has to be recovered from the petitioner therefore, the final pension of the petitioner has not been paid.

5. Having heard the submissions of the counsel appearing for the parties, I am of the opinion that the plea taken by the respondents in the counter-affidavit cannot sustain. The respondents have themselves admitted that no departmental proceeding was initiated against the petitioner. Initially, though it appears that an amount of Rs. 2,27,675/- was determined as unadjusted advance, and inquiries were conducted into the matter in which the Inquiry Officer has recorded that the petitioner has submitted vouchers with respect to the advance amount given to

him, the letter dated 30.11.2006 would indicate that an amount of Rs. 68,625/- only was to be recovered from the petitioner. However, vide letter dated 03.08.2007, an amount of Rs. 1,19,675/- has been ordered to be recovered whereas, the letter dated 30.04.2010 would indicate that an amount of Rs. 98,545/- and the letter dated 25.10.2010 would indicate that an amount of Rs. 85,945/- would be paid by the petitioner. The letters written by the respondents themselves and from the counter-affidavit filed on behalf of the respondents, I do not find any justification for indicating different amounts to be recovered from the petitioner. Though, the respondents have admitted that Gratuity, Leave Encashment and difference of the pension amount would be given to the petitioner, it appears that the same has yet not been given to the petitioner. I am of the opinion that the respondents have arbitrarily withheld the payment of pension and other retiral benefits to the petitioner and, therefore, the respondent No. 2 is directed to take immediate steps for the fixation of pension and release of pension and other pensionary benefits to the petitioner, in accordance with law. I am also of the opinion that since the alleged unadjusted amount is of the year 1992-93, in view of the laches on the part of the respondents themselves, the respondents are not entitled to recover any interest on the unadjusted advance, if any. It is made clear that it would be open to the respondents to realize unadjusted advance, if any, through recourse to law. The writ petition is disposed of in the aforesaid terms.