
(2012) 02 JH CK 0043

In the Jharkhand High Court

Case No : Writ Petition (S) No. 977 of 2005

Parmeshwari Prasad Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-02-2012

Acts Referred:

Citation : (2012) 2 JCR 54

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : Ayush Aditya, D. Sen and P. Dayal, for the Appellant; S. Srivastava, for the Respondent

Judgement

P.P. Bhatt, J.—Heard the learned counsel for the petitioner as well as the learned counsel for the respondents. With the consent of the parties, this matter is taken up for final hearing.

2. Present petitioner has filed this writ petition, inter alia, praying that necessary direction be issued upon the respondents to pay all the post retiral dues payable to the petitioner, such as, arrears of salary, pension, gratuity, leave encashment, general provident fund etc. and it is further prayed that necessary direction may be issued for quashing the part of office order dated 25.5.2001 in so far as it relates to continuance of departmental proceedings.

3. It is the case of the petitioner that petitioner was suspended on 26.11.1977 and departmental proceedings were initiated in the year 1982. It is submitted by the learned counsel for the petitioner that petitioner submitted his explanation before the Enquiry Officer on 15.9.1983 in response to the charges levelled against him in the departmental proceedings. Learned counsel for the petitioner further submitted that a criminal case was instituted against the petitioner but on 27.5.1982 final form was submitted by the police for lack of evidence; however, the departmental proceedings are still pending, though the explanation was submitted by the petitioner on 15.9.1983.

4. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of State of Andhra Pradesh Vs. N. Radhakishan, wherein it was held that unexplained delay in conclusion of the proceedings itself is an indication of prejudice caused to the employee.

5. Learned counsel for the petitioner submitted that because of pendency of the departmental proceedings, the respondents are not processing the case of the petitioner with regard to payment of remaining pension, gratuity and other retiral benefits.

6. Learned counsel for the petitioner also invited the attention of this Court to Annexure-F to the counter-affidavit, filed by the respondent No. 3, that service book and pension papers were sent to the Accountant General Office on 31.12.2005 and thereafter, the same has been returned to the respondent No. 3 by the Accountant General Office for necessary compliance on 16.2.2006 and thereafter again the Accountant General Office requested the District Superintendent of Education, Hazaribagh for submission of service book and pension papers of the petitioner by its letter No. Pen-I-C.C-16/11-12/10772 dated 13.9.2011 but till date the petitioner is deprived of his pension and other retiral benefits.

7. Learned counsel for the petitioner has also relied upon the judgment of this Court in the case of Dr. Dudh Nath Pandey v. State of Jharkhand and others, reported in 2007 (4) JCR 1 (Jhr) (FB) and submitted that pendency of the departmental proceedings will not come in the way to finalize the pension and other retiral benefits of the petitioner, as the petitioner superannuated from the service on 31.1.2000.

8. Learned counsel for the respondents referred to and relied upon the counter-affidavit filed by the respondent No. 3 and submitted that pension papers were forwarded by the District Superintendent of Education on 30.12.2005 and the same is pending with the Accountant General Office. So far delay in enquiry proceedings are concerned, it is submitted that the necessary steps will be taken by the respondents for expeditious completion of the departmental proceedings, if it is not completed so far.

9. Learned counsel appearing on behalf of the Accountant General referred to and relied upon the counter-affidavit filed by the Accountant General Office and submitted that Accountant General Office has requested the District Superintendent of Education, Hazaribagh for submission of service book and pension papers of the petitioner vide its letter dated 13.9.2011 and on receipt of the same, the pensionary benefits will be authorized without any further delay.

10. Considering the aforesaid rival submissions and perusing all the papers, it appears that the departmental proceedings instituted against the petitioner in the year 1982 has not come to an end and no satisfactory explanation has been given by the respondents for non-completion of the departmental proceedings. It appears that a criminal case was instituted against the petitioner but on

27.5.1982 final form was submitted by the police-authorities for lack of evidence. It also appears that petitioner submitted his explanation in the departmental proceedings on 15.9.1983 but till date there is no progress or final outcome in the departmental proceedings as submitted by the learned counsel for the petitioner. In the meantime, the petitioner retired from the service on 31.1.2000. The petitioner has been paid 90% of the retiral benefits; however, remaining 10% of the pension and other retiral benefits have not been paid to the petitioner. It appears that the pension papers were forwarded by the District Superintendent of Education on 30.12.2005 and thereafter. Accountant General Office has raised certain queries and referred the matter to the District Superintendent of Education on 16.2.2006 for necessary compliance and it transpires from the counter-affidavit filed by the respondent No. 4 that on 13.9.2011 once again respondent No. 4 requested the District Superintendent of Education, Hazaribagh for submission of service book and pension papers of the petitioner. Learned counsel appearing on behalf of the respondent No. 4 submitted that on receipt of the same, the pensionary benefits will be authorized without any further delay.

11. I have pursued the judgment of Dr. Dudh Nath Pandey's case (supra.) cited by the learned counsel for the petitioner, which is applicable to the present case.

12. I am of the opinion that necessary direction is required to be given to the respondents.

13. In the light of the aforesaid submissions and having regard to the facts and circumstances of the present case, respondent Nos. 2 and 3 are directed to see that the departmental proceedings be concluded within three months from the date of receipt of a copy of this order, if not completed by now. So far payment of remaining 10% pension and other retiral benefits are concerned, respondent Nos. 2 and 3 shall forward the pension papers within one month from the date of receipt of a copy of this order along with service book and other requisite papers as required by the Accountant General Office and on receipt of the same, respondent No. 4 shall process the same without any further delay if the papers received by the Accountant General Office are found in order. With the aforesaid observations and directions, this writ petition stands disposed of.