
(2003) 07 JH CK 0085
In the Jharkhand High Court
Case No : C.W.J.C. No. 428 of 1995 (R)

Prof. Gopalji Sahay

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 21-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 635

Hon'ble Judges : P.K. Balasubramanyan, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : V.P. Singh and Ashok Kumar Sinha, for the Appellant; R.S. Mazumdar and Atanu Banerjee and S. Srivastava, for the Respondent

Judgement

I.A. No. 1091 of 2003

1. Heard counsel for the parties. Petitioner by way of this interlocutory application has prayed that the State of Jharkhand and its officers be added as party respondents in this case. In view of the Bihar Reorganisation Act, 2000, this interlocutory application is allowed. The State of Jharkhand and its officers as described in paragraph 2 are added as party respondents in this case.

CWJC No. 428 of 1995(R)

Heard the parties in the main writ petition.

2. The Supreme Court remanded this matter by order dated 6.9.1999 passed in Civil Appeal No. 4985 of 1999 for consideration of the question whether the following four items are payable to the petitioner or not :

"(a) Difference of salary, DA, House rent allowance for the period 1.2.1985 to 30.9.1985, during which period the petitioner was entitled for payment on scale of University Professor i.e. the scale of Rs. 1,500.00 along with interest."

(b) 14 days earned leave encashment inasmuch as he was paid for 126 days whereas he was entitled for 140 days.

(c) Interest against all the dues for the period June, 1992 to January. 1994.

(d) The petitioner was also entitled to a sum of Rs. 35,167.00 which was paid to the college authorities by the Government but the same was wrongly deducted by the College."

3. Re : Claim (a).--The petitioner has claimed that as per the judgment 26.3.1992 passed in CWJC No. 1409 of 1991(R) (Annexure 4), he was also entitled to difference of salary, DA and House Rent Allowance from 1.2.1985 to 30.9.1985 whereas the college by mistake omitted to calculate the same and demand this amount from the Government. Petitioner also learnt about this mistake at the time of filing the amendment petition in this case.

Learned counsel for the college disputed this claim on the basis of other judgments passed by this Court.

However, since this claim is covered by the aforesaid judgment rendered interparties, which has attained finality, we direct that the college should pay to the petitioner the difference of salary, DA and House Rent Allowance for the period 1.2.1985 to 30.9.1985, which comes to Rs. 6,694.10 as calculated by the petitioner. The college has not disputed the correctness of this calculation. This amount will carry interest at the rate of 10% per annum, as per the aforesaid judgment, from November, 1988 i.e. the date of superannuation of the petitioner till the date of payment. However, it is made clear that the college will calculate and pay the said amount to the petitioner in the first instance and since it is an omission on the part of the college, it may be entitled to claim this amount from the State of Jharkhand. The State of Jharkhand may reimburse an amount to the extent, the college is entitled to.

4. Re : Claim (b).--The college has stated in the counter affidavit filed on 18.3.1996 that "so far payment of 14 days earned leave the General Body has decided on 19.8.1995 for payment of the extra classes taken during the Puja Vacations of 1987. The petitioner is requested to take this amount at his earliest convenience."

This claim was not involved in the aforesaid judgment. The petitioner became entitled to this claim only on 19.8.1995 when a decision was taken to pay for the extra classes.

As per the petitioner's calculation, this amount comes to Rs. 2,636.95. Learned counsel for the college could not dispute the correctness of calculation. We direct the college to calculate and pay this amount along with interest on it at the rate of 10% per annum from 19.8.1995 to 18.3.1996, when this amount was offered to the petitioner in the counter affidavit.

5. Re : Claim (c).--Regarding payment of interest from June, 1992, to February, 1994, there is also an order passed on 22.3.1994 by the Secretary, Department of Higher Education Government of Bihar, Patna pursuant to the orders passed by this Court, and therefore, the college is directed to calculate and pay interest at

the rate of 10% per annum from June, 1992 to February, 1994 on Rs. 1,64,367.12 as calculated by the petitioner in his statement annexed with the second supplementary affidavit.

6. Re : Claim (d).--Learned counsel for the petitioner submitted that the college has charged interest on the amount paid as advance which was not provided by this Court in the aforesaid judgment.

Learned counsel for the college disputed this claim. He clarified that the college has deducted the amount paid to the petitioner in excess, and as advance, pending receipt of the amounts from the State Government. The interest calculated wrongly on such amounts paid as advance was liable to be deducted from the calculation.

We are satisfied that this claim is wholly misconceived and accordingly the same is rejected.

7. The college is directed to calculate the amounts as aforesaid and make it ready for payment, within a period of four weeks from the date of receipt/production of a copy of this order and the petitioner may go and collect the said payment from the college one week thereafter, during the office hours of the college.

8. We make it clear that this order has been passed to put an end to the long drawn litigation and it will not be treated as precedent.

With the aforesaid observations and directions, this writ petition is disposed of.