

(2005) 11 PAT CK 0035
In the Patna High Court
Case No : CWJC No. 13682 of 2004

Ram Yatan Singh @ Ram Jatin Singh	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 29-11-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 120(B), 409

Citation : (2006) 1 BLJR 48 : (2006) 1 PLJR 284

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Heard the counsel for the petitioner and the counsel for the State.

2. Relief sought for in the present writ application is for making payment of retiral dues and other lawful claims of the petitioner, such as CPF and gratuity with statutory interest.

3. Petitioner's case is that he was appointed on the vacant post of Sales Man in regular pay scale in Khadi Bhawan, Patna, which is one of the units of Bihar State Khadi and Village Industries Board, (hereinafter referred to as "the Board"). He joined on 18.2.1963 and after serving near about 33 years retired from service on 31.1.1999. During his service period, on the order of the Administrative Officer, Khadi Bhawan, Gaya, petitioner was asked to act as an Accountant and while continuing on the post of Accountant a police case bearing Muffasil Gaya PS case No. 302 of 1998 was lodged by Mahesh Prasad, the then District Khadi Gramodyog Officer, Gaya. Case was instituted against Suresh Prasad Singh, Manager and the petitioner for the offence under Sections 409 and 120B of the Indian Penal Code. After investigation police submitted chargesheet under Sections 409/120B of the IPC, 30.12.1999 against Suresh Prasad Singh but final form was submitted against the petitioner as the case was found false. The Chief

Judicial Magistrate, Gaya accepted the final form submitted against the petitioner and also dropped the criminal proceeding against the petitioner by order dated 13.1.2000.

4. Petitioner's grievance is that even after the acceptance of the final form and criminal proceeding being dropped against the petitioner he has not been paid his salary for eight months and his pension and pensionary benefit have not been allowed. In paragraphs 14 to 19 and 23 of the writ petition the petitioner has given the details of the amounts which are payable to him.

5. Counter-affidavit has been filed on behalf of the respondents No. 2 and 3 stating that the petitioner's appointment was not made on the approved and sanctioned post by the State Government. As such the liabilities and retiral benefits of such employees solely rests upon the Khadi Board. The petitioner was appointed under Plan Head Scheme on unsanctioned post and the Khadi Board has to make payment of retiral dues to the petitioner from its generated sources. A meeting was held on 19.2.2004 between the Industries Department and Chief Officer, Khadi Board to resolve the issues regarding liabilities of Plan Head and finally it had been decided that the Khadi Board has to meet the liabilities itself. However, in CWJC No. 12124 of 1993 similar matter has been decided and this Hon'ble Court had directed the State Government to make payment of retiral dues and other dues to such employees who have been appointed on the post duly sanctioned and approved by the State Government. It had also been stated that the criminal proceeding is pending against the petitioner as such there is no question of making payment. ,

6. From the counter it transpires that without verifying the actual position of the criminal case against the petitioner wrong statement has been made in the counter-affidavit. The fact is that the criminal proceeding has already been dropped against the petitioner and there is no departmental proceeding which is pending against him. The petitioner has superannuated after completing 33 years of service and this is the liability of the Board to make payment of all retiral dues as well as salary to the petitioner. Accordingly, the respondents No. 2, 3 and 4 are directed to make all the payment of retiral dues as well as salary within one month from the date of receipt/production of a copy of this order. Since the payment of the pension and gratuity has been delayed on account of laches on the part of the respondents the petitioner is entitled for statutory interest on these amounts.

7. With the aforesaid observation this application is allowed.