(2007) 02 PAT CK 0019

In the Patna High Court

Case No : LPA No. 776 of 2006

Sahodari APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 27-02-2007

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2007) PLJR 410

Hon'ble Judges : J.N. Bhatt, C.J;S.K. Sinha, J

Bench : Division Bench

Advocate : Ravindra Kr. Sinha, for the Appellant; Raghunandan Pd. Sinha for Respondent No. 3 and Mr. J.C. to A.A.G. 3 for the State, for the Respondent

Final Decision : Allowed

Judgement

1. This Letters Patent Appeal raises a challenge against the order of the learned Single Judge passed in C.W.J.C. No. 9241 of 2005 on 4.9.2006 which is seriously attacked by learned counsel for the original writ petitioner-appellant. We have heard learned counsel appearing for the parties. We have considered the facts, as well as, the merits of the impugned order.

2. The main relief which is, admittedly, sought by the petitioner in the original writ petition under Article 226 of the Constitution of India is to direct the respondent authority to pay the pension to the original writ petitioner in each and every month with up-to-date dearness allowance and to pay the interest on provident fund amount, difference of salary on account of revision of pay, bonus and medical relief, as well as, the interim relief with statutory interest and to issue an appropriate direction for payment.

3. It is the case of the original writ petitioner that the respondent authority has not paid the retrial dues and pensionary benefits in terms of the revised rate of dearness allowance without any fault of the writ petitioner. It was, also, further contended that the similarly situated other persons in Class IV services have

been paid dearness allowance at the rate of 295 per cent for the consideration of the amount of pension depriving the petitioner.

4. Our attention has been invited to the counter affidavit in reply filed by respondent No. 3, Gaya Municipal Corporation, wherein, averments are made in paragraph 8. It is important to consider those averments in paragraph 8.

5. The original writ petitioner came to be appointed as a Sweeper, on 18.2.1981 in the Corporation and superannuated on 30.4.1995. While the original writ petitioner completed a period of 14 years and 2 months in the service, the last pay drawn by her was Rs. 907/-, the average of which comes to Rs. 897/-. Relying on that the said Corporation fixed the pension of the petitioner at Rs. 209/- per month, over and above, the dearness allowance prevalent and revised from time to time. It is, specifically, stated that at present the petitioner is paid dearness allowance at the rate of 295 per cent like other employees, whereas, learned counsel for the petitioner has submitted that this is not the correct fact. Thus, she is entitled to dearness allowance at the rate of 295 per cent which was, also, calculated but it is not being paid. That is the main grievance.

6. Learned counsel appearing for the Corporation has, rightly, said that the dearness allowances has to be paid as revised from time to time which was at the rate of 295 per cent and, accordingly, the same will be calculated and shall be paid within a period of eight weeks from today.

7. It is in this context, we direct respondent No. 3, Municipal Corporation, Gaya, to re-examine and reconsider the case of the petitioner in accordance with the rules and regulations and prevalent rate of dearness allowance and pay the same to the original writ petitioner-appellant before us, within the aforesaid time. Accordingly, this appeal shall stand allowed. Rule is made absolute.

