
(2002) 11 PAT CK 0006
In the Patna High Court
Case No : C.W.J.C. No. 9623 of 2002

Shambhu Nath and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 01-11-2002

Acts Referred:

Bihar Agriculture University Act, 1987 — Section 29, 39(3)

Citation : (2003) 1 PLJR 126

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Mayanand Jha and Anil Kumar Roy, for the Appellant; S.J. Rahman, Kameshwar Kumar for State, V.R.P. Sinha, M.M.P. Sinha for University, J.P. Karn and P.K. Rajgrihar for Accountant General, for the Respondent

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the Petitioners have claimed for payment of G.P.F. dues, leave encashment in the revised scale and arrears on revision of their scale with effect from 1.1.1996.

2. The Petitioners were initially appointed in the Government service and later transferred to the service of the Rajendra Agricultural University. Petitioner Nos. 1 and 2 retired from the service of the University while posted in the Bihar Veterinary College on 31.10.2000 and 31.1.2001 respectively, yet their aforementioned dues have not been paid so far.

3. As regards G.P.F. dues, the Assistant Director, Provident Fund has personally appeared and stated before this Court that necessary authorisation was issued with respect to the deduction statement received by the office earlier and with respect to some period, it was received from the Principal only on 23.10.2002, whereupon the authorisation has been issued by him on 31.10.2002. Thus, with respect to this, undisputedly there has been lapse on the part of the Principal in not sending the deduction statement to the Assistant Director with all

promptness. As regards the period 1979-80 to 1981-82 with respect to Binda Ram (Petitioner No. 2), he stated that certain details have been sought for from the Accountant General's Office yesterday. In this regard, of course, the lapse is on the part of the Assistant Director. However, a copy of the letter has been handed over to the learned Senior Standing Counsel appearing for the Accountant General, who shall see that the necessary information is transmitted to the Assistant Director within a week, whereupon the Assistant Director shall issue authorisation forthwith and the Principal, who is the drawing and disbursing authority, shall make the payment on encashment of the same within one week thereafter.

4. Learned Counsel appearing on behalf of the Vice-Chancellor and Principal has produced demand draft for Rs. 16,053/-issued in favour of Shambhu Nath (Petitioner No. 1) for payment of the provident fund amount for which authorisation has been issued earlier and the Principal, who is personally appeared in this Court, undertakes that he shall hand over the demand draft with respect to the remaining period in pursuance of the authorisation, which has been served upon him today, within three days. He further undertakes to pay the G.P.F. dues of Petitioner No. 2, for which he has already submitted bill in the treasury by tomorrow (2.11.2002) positively. The demand draft produced today has been handed over to the learned Counsel for the Petitioners.

5. As the Petitioners have already Seen paid up-to-date statutory interest on the said amount, the claim with respect to the G.P.F. is disposed of accordingly.

6. As regards the leave encashment and arrear of revised pay, learned Counsel for the University has submitted that the requisition for release of the fund was sent to the Government in September, 2000, but the same has not been received so far and, as such, he has brought two cheques for payment of leave encashment dues of the Petitioners as per the pre-revised scale. The said cheques have been handed over (sic) the learned Counsel for the Petitioners. With respect to the arrears of revised scale, he submitted that immediately after release of the fund by the State Government, the same shall be paid to the Petitioners.

7. Learned Counsel for the Petitioners, on the other hand, has submitted that under Sub-section (3) of Section 39 of the Bihar Agricultural University Act, 1987, it is the liability of the University to make payment of all such dues for which a transferred Government servant is entitled on account of the service rendered by him. As such, the University cannot get away from the said liability and it was the responsibility of the University to arrange fund and make payment of the dues at the time of retirement.

8. I find substance in the submission of the learned Counsel for the Petitioners. It is not disputed by the learned Counsel for the University that in terms of the provisions of the aforesaid Act, it is the liability of the University to pay the dues regarding revised scale as well as leave encashment in the revised scale. Learned

Counsel for the University has simply submitted that u/s 29 of the said Act, the University gets funds from different sources and one of the sources is the State Government, for which requisition has been sent to the State Government but they have not released the fund and as such the payment could not be made.

9. I am unable to appreciate the said submission of the learned Counsel for the University. According to him, in September, 2000 the requisition was sent and if at all the Government has not released the fund as per its liability, they ought to have come to this Court seeking appropriate relief against the Government, which they have not done so far, once the liability is not disputed, it is for the University to arrange for the fund so that the payment of such dues is made at least at the time of retirement and one is not compelled to knock the door of this Court by filing writ petition.

10. It is really unfortunate that the Vice-Chancellor being the head of the University does not at all take any initiative to streamline the functioning of the University in such matters and take such defence when writ petitions are filed against him. This only depicts callousness on his part in dealing with such claim, for which he must be made liable to pay penal interest and cost from his own pocket for the said dues.

11. Under the above mentioned circumstances, the writ petition is allowed with a cost of Rs. 5,000/- (five thousand) to be paid by the Vice-chancellor from his own pocket to the Petitioners along with the entire dues with penal interest at the rate of 8% per annum from due date till the payment is made within four weeks from today.