(2005) 09 JH CK 0043

In the Jharkhand High Court

Case No : WP (S) No. 3229 of 2005

Sheojee Pandey	APPELLANT
Vs	
Jharkhand State Electricity Board and Others	RESPONDENT

Date of Decision : 23-09-2005

Acts Referred:
Bihar Pension Rules, 1950 — Rule 43

Citation : (2005) 4 JCR 365

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Ritu Kumar, for the Appellant; R. Krishna, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This case was taken up on 25th August, 2005 when the following order was passed :-

''The petitioner has challenged the order dated 13th June, 2005 issued by the Accounts Officer, Transmission Circle, Ranchi.

The grievance of the petitioner is that the amount as shown to have been deposited by Cheque dated 11th June, 2005, has been deposited in some other account and not in the account of the petitioner. Further grievance of the petitioner is that though Motor Cycle loan has already been deposited by him but again certain amount has been recovered with interest.

Learned counsel for the petitioner further submitted that the respondents after retirement of petitioner cannot recover any amount on the ground of not passing Hindi Noting & Drafting Examination. Objection has also been raised with regard to penal rent on the ground that the retiral benefits were not paid in time.

Counsel for the Jharkhand State Electricity Board prays for and is allowed three weeks time to file counter affidavit.

The case may be disposed of on the next date. Place the case ''for orders'' on 20th September, 2005.

In the meantime, it will be open for the respondents to decide the question of commutation of pension of the petitioner, if he has requested."

2. Counsel for Jharkhand State Electricity Board (JSEB for short) submitted that a sum of Rs. 2,52,982/- has now been credited in the account of the petitioner. The aforesaid amount has been paid in addition to the amount earlier paid towards retiral benefits.

3. It appears that the respondents have deducted a sum of Rs. 4,542/- from the retiral benefits of the petitioner on the ground that the petitioner had not passed requisite Hindi Noting and Drafting Examination. Further, a sum of Rs. 13.088/- has been deducted towards penal rent and another sum of Rs. 709/- has also been deducted as interest, payable towards motorcycle advance.

4. Counsel for the petitioner rightly pointed out that no recovery of any amount can be made after retirement, even if the petitioner had not passed requisite Hindi Noting and Drafting Examination.

5. There is nothing on the record to suggest that the petitioner intentionally drawn the amount and/or any proceeding for recovery was initiated prior to his retirement. In absence of any proceeding, such as, Rule 43(b) of the Bihar Pension Rules, 1950, no recovery can be made from the retiral benefits of a pension.

6. The respondents are, accordingly, directed to return back the amount of Rs. 4542/- as recovered on the ground that the petitioner had not passed the Hindi Noting and Drafting Examination.

7. So far as penal interest is concerned, the petitioner having not vacated the quarters, it is open to the respondents to charge penal interest. The petitioner should vacate the quarters by 31st October, 2005. If the petitioner vacates the quarters by 31st October, 2005, the respondents will pay interest @ 5% for delayed payment on retiral benefits of Rs. 2,52,982/-.

8. Counsel for the petitioner submitted that the petitioner has deposited the amount of motorcycle advance, as was taken, in time.

9. If that be so, the petitioner may bring the same to the notice of the authority concerned, who will decide the claim afresh.

10. The respondents are also directed to take a decision with regard to commutation of pension and communicate the decision to the petitioner within a period of two months.

This writ petition stands disposed of, with the aforesaid observations and directions.