
(2013) 07 JH CK 0025
In the Jharkhand High Court
Case No : WP (S) No. 7858 of 2012

Sikandar Prasad Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 09-07-2013

Acts Referred:

Citation : (2013) 3 JLJR 583

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : D.K. Maltiyar, for the Appellant; Suresh Kumar for the Accountant General and Mr. Jai Shankar Tiwari for the State, for the Respondent

Judgement

S. Chandrashekhar, J.—The petitioner has approached this Court seeking direction upon the respondents for payment of salary for the month of July, 2011 and regular pension and other arrears of retiral dues. The brief facts as stated in the writ petition are that, the petitioner was posted as a Clerk in the Health Department under the Government of Jharkhand and he superannuated from service with effect from 31.7.2011. Even after his retirement as his retiral benefits were not paid, the petitioner has approached this Court by filing the present writ petition.

2. A counter-affidavit has been filed in which it has been stated that even after the retirement, since the petitioner did not submit charge of certain articles, some of his dues have been withheld.

3. Paragraph No. 11 of the counter-affidavit has been extracted below:--

11. That with regard to the statement made in paragraphs-10, 11 and 12 of said petition under reply, it is stated that it is evident from the submissions as mentioned above that the petitioner has already received the amount of Rs. 1,56,272/- vide Bill No. 66/11-12 for the Group Insurance and Rs. 6,86.253/- vide Bill No. 87/11-12 for the General Provident Fund. Payment for pay equal to unutilized earn leave is under process and his Service Book is being sent to the

District Account Officer, Dumka for verification and after verification he will get the benefit of arrear of ACP which is under process and further the pension paper of the writ petitioner will be sent to the Accountant General, Jharkhand, Ranchi for confirmation which is also under process. Moreover the cheques of amounting of Rs. 4,12,737/- vide Bill No. 273/12-13 for the Gratuity Rs. 2,14,396/- vide Bill No. 272/12-13 for provisional pension for the period of August, 11 to February, 13 and Rs. 26,172/- vide Bill No. 284/12-13 for the salary of July, 2011 is ready for payment but the writ petitioner has not furnished the No Dues Certificate to the District Malaria Officer, Dumka after which the payments will be made to petitioner.

4. The learned counsel appearing for the petitioner has raised a plea that although the petitioner has submitted charges of all the articles as mentioned in Annexure-1, some of his retiral benefits have been illegally withheld by the respondents.

5. The learned counsel appearing for the respondents submits that rest of the retiral dues of the petitioner would be paid as and when he submits the No Dues Certificate to the District Malaria Officer, Dumka.

6. It appears that after the superannuation of the petitioner, no proceeding was initiated against him under the relevant provisions of Jharkhand Pension Rules. It is also not appearing from the counter-affidavit filed on behalf of the respondents that the respondents issued any show-cause notice to the petitioner. It is settled position, in law that the retiral benefits of an employee is not a bounty and an employee has a right to claim pension and other retiral benefits. Without issuing any show-cause notice or without initiating any proceeding against the petitioner, the retiral benefit of the petitioner could not have been withheld by the respondents and therefore, I am inclined to allow this writ petition. Accordingly, this writ petition is allowed directing the respondents to release forthwith all the retiral benefits of the petitioner which have yet not been released by them.