

(2003) 05 PAT CK 0028
In the Patna High Court
Case No : L.P.A. No. 1328 of 1996

The State of Bihar and Another

APPELLANT

Vs

Smt. Vidya Dua and Others

RESPONDENT

Date of Decision : 08-05-2003

Acts Referred:

Citation : (2003) 3 PLJR 630

Hon'ble Judges : Ravi S. Dhavan, C.J.; R.N. Prasad, J

Bench : Division Bench

Advocate : V.N. Sinha, for the Appellant; K.K. Tripathi, for the Respondent

Final Decision : Dismissed

Judgement

Ravi S. Dhavan, C.J.—This appeal by the State of Bihar is unfortunate. The facts in short. Dayanand Dua was an Executive Engineer in the Minor Irrigation Department. While posted at Ara he was shot on (sic) This happened on 28 November 1985. After his death the State Government announced an exgratia payment of Rs. two lacs in favour of the widow in addition to post retirement dues, pension etc. Unfortunately the matter relating to the arrears, benefits which had accrued to the deceased as a consequence of his service are delayed in payment. The matter relative to dues whether emoluments or post increment benefits were much delayed in payment. For instance the salary from 29 November, 1985 to 31 January, 1990 had not been paid. The widow filed writ petition CWJC No. 9147 of 1994: Smt. Vidya Devi and Ors. v. The State of Bihar and seeking reliefs that to whatever she has entitled to whether arrears of salary, post retirement benefits, pension, as also a commitment to provide her exgratia payment, this be paid. There was no issue that the payment was not due to her. The amounts which were to be paid was accounted by the Respondents.

2. For delay in payment the learned (sic) ordered that it would be delivered to widow with 8 per cent interest. The payment with 8 per cent interest aggrieves the State of Bihar. This in itself is unfortunate. Firstly, an engineer was shot on

duty whatever his arrears were these should have reached the widow at her home. And, there should not be an occasion for her to file a case in a law Court to receive her entitlement. Secondly, on an admitted fault and the delay in payment of it to resist interest on delayed payment offends equity. The widow was hardly in a position to fight the State of Bihar. The situation presented in the present case is depressing and frustrating.

3. This Court would have ordered that whatever be the rate of interest year by year ought to be paid between the time when the Court awarded 8 per cent interest and this would have taken the interest rate to 12% in some years. Today, the rate of interest may be about the same as what the learned Judge has awarded.

4. Further in so far as the interest part is concerned the Accountant General had already sanctioned this amount by sanction order No. Pen. XI. 680-82 dated 6 August 1997. This was an amount of Rs. 24,412/-. This payment had been stayed by an interim order of the High Court dated 14 July, 1997 in this Letters Patent Appeal when the State of Bihar filed the present appeal. This stay order dated 14 July, 1997 is vacated.

5. In the circumstances the sanction order will be updated as it partakes the nature of a negotiable instrument and the widow is the holder for value under the Negotiable Instruments Act, 1881. She will be entitled to have the payment order updated. In addition the interest will be calculated as from the date when it was reckoned to today also @ 8 per cent. The updated sanctioned order will be delivered to the widow within six weeks from today.

6. If the Respondents fail to comply with the order of this Court, the widow will be entitled to have this case reopened to seek contempt-action and special costs both from the Secretaries to the Department concerned and State of Bihar. This will not preclude the Court to examine added harassment to the widow and consider penal action against any other functionary of the State.

7. Appeal dismissed with costs.