

(2008) 07 PAT CK 0052
In the Patna High Court
Case No : MJC No. 1129 of 2005

Uma Shankar Prasad Srivastava

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 08-07-2008

Acts Referred:

Citation : (2009) 1 PLJR 234

Hon'ble Judges : R.M. Lodha, C.J; Kishore K. Mandal, J

Bench : Division Bench

Advocate : Rajeev Kr. Singh, for the Appellant; Dharmeshwar Mishra, for the Respondent

Judgement

1. The grievance in this contempt petition is now confined to nonpayment of commuted value of pension. The counsel for the petitioner submits that this is in utter breach of the order dated 19th September, 2003 passed by this Court.

2. The counsel for the Bihar State Electricity Board (respondent Nos. 2 to 5) submits that due to the division of the Bihar State Electricity Board on State Reorganisation, the financial condition of the Board does not permit the Board to pay the commuted value of pension. He submits that the pensioners through their Association titled "Vidyut Board Pensioner's Samaj, Patna," made a representation to the Board for making payment of commuted value of pension to the erstwhile employees or stop recovery and refund the amount deducted until the Board pays their sanctioned dues. It is submitted that the Board considered the representation made by the Vidyut Board Pensioner's Samaj and decided to stop recovery of commuted pension and also refund the deducted amount of pension.

3. The contention of the counsel for the Board gets support from Annexure-A which is a representation made by the Vidyut Board Pensioner's Samaj to the Board. It reads thus:-

"To, The Chairman, Bihar State Electricity Board, Jawahar Lal Nehru Marg, Patna.

Sub: Payment of commuted value of pension sanctioned but not yet paid.

Sir,

It has been complained by many of the retired employees that although they have been sanctioned commuted value of pension followed by authorization letter issued by the Financial Controller-I for payment, the bills prepared and passed subsequently by the Dy. Director of Accounts (Sectt.) are still lying unpaid. The payment has been unjustly denied delayed since last eight/ten months on the ground of liquidity crunch.

2. That, these retired employees are running from pillar to post and have ventilated their grievances several times before the Financial Controller-I and the Dy. Director of Accounts (Sectt.) respectively. But contrary to their hopes and expectation, all requests and persuasions made in this regard have fallen on the draft (sic-deaf?) ears of those officers.

3. That, this is not the end of the story. Even without making payment to them, the Dy. Director of Accounts (Sectt.) has started recovery towards instalments of commuted pension value from their monthly pension bill. Whereas, it is a mandatory requirement that commencement of recovery should take place only after the payment is made. Such action exits laughter and shows how your Board is fast, efficient and orderly.

4. That, there is much resentment among these employees on being found that recovery has been started from their monthly pension bills without payment of commuted value to them. Such situation has given to believe that this is nothing but a deliberate act on the part of officers of the finance wing who have failed to act judiciously in the matter.

I, therefore, request you to look into the matter personally and pass orders to either make payment of the sanctioned value of commuted pension to the respective ex-service employees forthwith or stop recovery and refund the months deducted until the Board pays their sanctioned dues."

4. The Board took a decision which is recorded in the communication dated 17.11.2003 sent to all Chief Engineers, Supply Divisions/Supply Circles etc. The said decision reads thus:-

"It has been given to understand that the recovery of commuted portion of pension from the monthly pension of the pensioner is started even before making payment of commuted value of pension to the concerned pensioner. Such action has put the pensioners in financial hardship. A representation has also been received from the Vidyut Board Pensioners Samaj, Patna in this regard vide their letter No. 107 dated 22.10.2003 showing their resentment over the said action of the Board. It has been requested by them either to make payment of the sanctioned amount of commuted value of pension to the retired employees or stop recovery of commuted pension and also to refund the deducted amount of pension until the Board pays their sanctioned amount.

Since it is difficult to release fund for payment of the sanctioned amount of commuted value of pension immediately due to lower monthly revenue collection and delay in division of liabilities of the erstwhile Bihar State Electricity Board as stated above, it has been decided that:-

(a) The recovery of commuted portion of pension shall not commence until payment of the commuted value to the pensioners.

(b) In case where deductions have already been started without making payment of commuted value of pension, the same shall be stopped forthwith.

(c) If any pensioner opts for cancellation of sanction as well as payment authority regarding commuted value of pension where the value of commuted pension is yet to be paid, the concerned authority shall cancel the same and refund the amount of deduction already made.

You are, therefore, requested to take action strictly in accordance with the aforesaid decisions. It may, however, be noted that the amount of commuted portion of pension shall be deducted from the commuted value of pension at the time of payment for entire period during which deductions have not been made as per the payment authority of commuted value of pension already issued."

5. The aforesaid facts lead to an inference that there was no deliberate disobedience on the part of the respondent-Board. As a matter of fact, the deducted amount has already been paid to the petitioner.

6. Thus, the grievance of the petitioner regarding disobedience of the order of this court dated 19.9.2003 does not survive. MJC is disposed of accordingly.