
(2003) 03 PAT CK 0104
In the Patna High Court
Case No : C.W.J.C. No. 13564 of 2000

Vishwanath Manjhi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-03-2003

Acts Referred:

Citation : (2003) 2 PLJR 277

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Judgement

Radha Mohan Prasad, J.—In this writ petition, the Petitioner, who superannuated as Class IV employee from Siwan Municipality with effect from 1.1.1998, is aggrieved on account of non-release of his retiral dues.

2. A counter affidavit and a supplementary counter affidavit have been filed on behalf of the Respondent-Municipality.

3. Learned Counsel for the Municipality has produced calculation from the original file, which shows that gratuity of Rs. 15,559/- and dearness allowance of Rs. 14,305/- on it; total amounting to Rs. 29,864/-has been found payable. Besides this, Rs. 5,007/- has been found payable towards unutilised leave of 83 days and accordingly a cheque of Rs. 34,871/- has been issued in favour of the Petitioner. According to the Respondent-Municipality, the only amount now payable is the amount of contributory provident fund, for which the Municipality has already given its "no objection", vide letter No. 181 dated 30th March, 2K. Learned Counsel for the Municipality has produced the copy of the said "no objection". According to him, the Petitioner may collect the pass-book and approach the concerned Post-Office for encashment of the provident fund amount deposited in his C.P.F. account.

4. Learned Counsel for the Petitioner, on the other hand, has submitted that the Petitioner is entitled for pension under the Bihar Municipal Officers and Servants Pension Rules, 1987, According to the learned Counsel, it was on account of

laches on the part of the Municipality that the said Rule was adopted only in August, 2001. Thus, according to him, the Petitioner, who exercised his option earlier, is entitled for the benefit of pension. Learned Counsel for the Municipality has submitted that the Petitioner is not entitled for the benefit of pension under the said Rules as he never exercised his option in the prescribed form even before the adoption of the Rules.

5. I do not find substance in the submission of the learned Counsel for the Petitioner. It is not disputed by the learned Counsel for the Petitioner that the Petitioner never exercised option at any time either before or after the adoption of the Rules by the Municipality in the prescribed form. Under such circumstances, this Court finds it difficult to hold that the Petitioner is entitled for the benefit of pension.

6. However, as the Municipality has already given "on objection" for encashment of the provident fund from the contributory provident fund account of the Petitioner, the Petitioner may approach the Municipality for release of his pass-book, whereupon he may encash the said amount from the concerned Post-Office by producing the pass-book and "no objection" furnished by the Municipality.

7. The copy of the "no objection" and the cheque produced today on behalf of the Municipality have been handed over to the learned Counsel for the Petitioner.

8. The writ petition is, accordingly, disposed of.