(2001) 02 PAT CK 0022

In the Patna High Court

Case No : C.W.J.C. No. 975 of 2000

Yadav Lal Prasad Gupta APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 05-02-2001

Acts Referred:

Citation : (2001) 2 PLJR 398

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Advocate : Basant Kumar Tripathy, for the Appellant; H.S. Himkar for Corporation and Mr. Nalin Kumar for State, for the Respondent

Judgement

S.N. Jha, J.—This writ petition has been filed seeking direction upon the concerned respondents to pay salary dues with interest to the petitioner in accordance with the order of this Court dated 11.9.96 in CWJC No. 6280/94. From perusal of the said order, copy whereof is enclosed as Annexure 1, it appears that considering the grievance of the petitioner as to nonpayment of arrear salary this Court directed the Managing Director (respondent no. 2) to examine the grievance of the petitioner for payment of his salary for the period in question along with interest at the rate of 12 per cent. The Court observed,

If on examination it is found that petitioner for the relevant period has worked with the Bihar State Construction Corporation Ltd. necessary payment must be made within four weeks from the date of receipt/production of a copy of this order.

According to the petitioner, pursuant to the above order of this Court, he is entitled to a sum of Rs. 2,21,414.60 vide calculation chart enclosed as Annexure 2 but a sum of Rs. 94,031.40 only has been paid to him. It may be mentioned here that a brief chart indicating the basis of the calculation has also been enclosed by the Bihar State Construction Corporation as Annexure ''A'' to their affidavit. From the chart read with the relevant averment in the affidavit, it appears that on the basis of work done by the petitioner in the Corporation his arrear salary worked out to be Rs. 1,99,587.40. After deducting the amount of Rs. 59,455/- already paid to the petitioner earlier, and the sum of Rs. 7540/- and Rs. 37,521/- deducted towards General Provident Fund contributions and Income Tax at source, the entitlement of the petitioner has been worked out to be Rs. 94,031.40.

2. I wanted to know from the counsel for the Corporation as to whether the interest @ 12% as ordered by this Court has been worked out in determining the said amount. Counsel made two fold submission in this regard. He firstly submitted that payment of interest was to depend on the result of the enquiry to be made as per the direction of this Court in the order dated 11.9.96, secondly in CWJC No. 11182/95, Mostt. Krishna Verma & ors. vs. State of Bihar, in which a general order was passed and pursuant to which the State Government released fund for payment of salary to the employees of the Government working on deputation in the Corporation, no such order had been passed. Both these submissions, in my opinion are fallacious. From bare reading of the order dated 11.9.96 (supra) it is apparent that the enquiry contemplated in the said order was limited to finding out if the petitioner had worked in the Corporation during the relevant period or not. The said enquiry did/does not permit the Corporation to withhold the interest in any manner. Having once determined the entitlement of the petitioner on the basis of the work done in the Corporation it has no option but to pay interest @ 12% on the amount as already ordered by this Court. It would not be out of place to mention here that the Corporation filed Civil Review No. 26/98 seeking review of the said order of this Court, which was disposed of observing that there was no scope for interference with the order, on 13.8.98. Reliance on the order in CWJC No. 11182/96 also is wholly misconceived. The entitlement of the petitioner has to be determined with reference to the order passed in inter party case not on the basis of the order passed in the another case. There being an order for payment of interest, which has attained finality, the Corporation has no option but to pay interest @ 12% on the sum found due to the petitioner.

3. Now coming to the calculation chart enclosed by the petitioner, in fairness to the Corporation, it must be observed that the petitioner has not mentioned therein the amounts already paid to him and/or deducted towards General Provident Fund contribution or the Income Tax. An employer has no option but to make deduction under the Provident Fund Act as well as Income Tax Act. Thus I do not think that the calculation chart enclosed by the petitioner is complete and reliable.

4. Be that as it may, in view of my conclusion reached above regarding the entitlement of the petitioner to interest @ 12%, I direct the Corporation to work out the amount payable as interest to the petitioner and pay the amount within six weeks of receipt/production of a copy of this order. The petition stands disposed of in the above terms.

