IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.585 of 2015

==

Manas Mani Dehati S/o Late Sri Ram Ram resident of village + P.O. Nagrawn, P.S. Charpokhari, District - Bhojpur (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Personnel and Administrative Reforms Government of Bihar, Patna
2. The District Collector, Patna
3. The Deputy Collector (Establishment), District Collectorate, Patna
4. The Specialist Officer, Anubhajan Karyalay, Patna
5. The District Treasury Officer, District Collectorate, Patna.
6. The Accountant General of Bihar Patna

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha, Adv.

For the Respondent/s 6 : Mr. Satish Chandra Jha, Adv.
For the Respondents : Mr. Nawal Kishore Singh SC 2.

==

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 22-07-2015

Learned counsel for the petitioner submits that he has served two copies of the brief upon Mr. Satish Chandra Jha, learned counsel who also appears on behalf of the Accountant General. In support of his submission he files receipt. Let it be kept on record.

I have heard learned counsel for the petitioner, the State and the Accountant General.

It is contended on behalf of the petitioner that his father late Ram Ram died on 02.02.2007, while he was serving as Supply Inspector in the office of the District Collector, leaving behind his two sons, one of them being the petitioner, as well as a daughter fully described in paragraph 4 of the writ petition. After getting death certificate of his father, the petitioner, claims to have represented before the authorities time without number for grant of all the terminal benefits due to his father since he was the only major person in the family as the mother had pre-deceased his father and as such, he had to look after his minor brother and sister also. It is contended that a detailed application for appointment on compassionate ground was also filed. The aforesaid application for grant of terminal benefits as well arrears of salary stands appended at Annexures 2 and 3. It is further contended that in the year 2010, the petitioner was appointed on compassionate ground, however, the arrears of salary as well as terminal benefits which was due to his father could not be paid except the provident fund amount of Rs. 2,30,840/-. It is urged that the same has not been paid even after lapse of 8 years compelling the petitioner to approach this Court by filing present writ application.

It appears from the records that on 19.02.2015, upon prayer made by the counsel for the State, four weeks time was allowed for filing counter affidavit. It is contended that, thereafter, payments have been made in the month of March 2015. Sanction order has also been passed fixing family pension and that has been sent to the Accountant General for necessary authorization. However, the petitioner raises a question that if all the amounts has paid within one month after a direction of this Court for filing counter affidavit, it is intriguing as to why the same could not be paid for about eight years keeping the petitioner and his family in much hardship.

Per contra learned counsel for the State submits at the strength of the statement made in the counter affidavit filed on behalf of the respondents no. 2 to 4 that the father of the petitioner did not join the transferred place for more than two months and later on he died hence a guidance was sought from the department vide letter no. 795 dated 06.07.2009 which in fact had caused delay in payment. It is evident from the averments made in the writ application itself that the petitioner was granted compassionate appointment in the year 2010 itself, therefore, he cannot claim that he was unable to maintain his family even after the date of his appointment.

This Court does not find favour with the submissions made on behalf of the State. It has been held time without number by various judicial pronouncements that the pension or retrial benefits are not bounty which is given to the employee or to his family after his death/retirement rather it is the right which an employee earns during his service period in lieu the services rendered to the department. Necessary decision has been taken within a month after the date of order of this Court directing the authorities to file counter affidavit, however, no action was taken for about eight years after the death of employees which indicates callous and negligent approach of the authorities. The claim of the concerned respondent that non-joining of father of the petitioner on transfer post for two months and a clarification having been sought from the department with respect to that got the matter delayed gets defeated by the averments made in the same paragraph 8 of the counter affidavit which has been referred for that purpose. It clearly indicates that the aforesaid issue was cleared by the department on 12.08.2009 itself. Another stand taken by the State that the petitioner was granted appointment on compassionate ground would also not come to its help as granting compassionate appointment after about three years of the death of the concerned employee does not empower the authority to withhold the terminal benefits which were legally due to be paid to the family of the deceased employee.

Having regards to the facts and circumstances of this case, in my considered opinion, the petitioner is entitled for simple interest upon the unpaid due amount at the rate of 10 % per annum to be calculated from the date the same became due till the date of its final payment. The said amount has to be calculated and paid to the petitioner within a period of two months from the date of receipt/production of copy of this order.

It is further clarified that the State authorities would be at liberty to make an enquiry and fix responsibility in the matter and realize/recover the amount of interest imposed and paid to the petitioner from the erring officer(s).

Since the family pension has already been sanctioned and forwarded to the Accountant General for issuance of necessary authorization, let the same be done by the Accountant General in accordance with law within a period of three weeks.

Accordingly, the writ application stands allowed.

However, in my considered opinion, in view of the callous, lethargic and negligent approach of the respondents adopted in granting the terminal benefits even after death of employee in harness, this is a fit case for awarding exemplary costs which is accessed at Rs 10,000/-

(Dr. Ravi Ranjan, J)

Prakash/-

U			