

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5034 of 2015

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Siya Ram Singh S/o Late Ram Khelawan Singh Resident of Village Papru,
P.S. Chouparan, District Hazaribagh, Jharkhand.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Irrigation, Government of Bihar, Patna.
2. The Chief Engineer, Rural Works Department, Department of Irrigation, Government of Bihar, Patna.
3. The Superintending Engineer, Rural Works Department, Work Division Gaya.
4. The Executive Engineer, Rural Works Department, Work Division Rajauli, Nawada.

.... Respondents

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Appearance :

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

For the Respondent/s : Mr. R.R.K. Pandey, SC29

Mr. Nagendra Sharma, AC to SC29

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 20-04-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:

“Commanding and directing the respondent authorities to pay the amount of gratuity, leave encashment and group insurance with statutory interest on delayed payment, the petitioner further prays for issuance of a consequential writ/order/direction to pay the salary of four months i.e. from September, 2013 to December, 2013.”

Learned counsel for the petitioner in support of the aforementioned prayer has drawn attention of this Court firstly to the order of regularization of service of the petitioner dated 22.11.1984 to contend that once the petitioner was given benefit of regularization he would not be only entitled for payment of all



retirement benefit including pension but also for the period he had served i.e. till 31.12.2013. In this regard he has submitted that the letter issued on 18.10.2013 by the Executive Engineer creating controversy with regard to the date of birth of the petitioner was wholly uncalled for and in any event the same could not have affected grant of pension and other retirement benefit to the petitioner.

Learned counsel for the State, on the other hand, has submitted that the petitioner has not stated as to the result of the show cause notice issued by the Executive Engineer on 18.10.2013 and therefore, it would be difficult for the authorities to settle the retirement benefit of the petitioner, especially when he wants to claim payment of salary for four months to which he was not entitled keeping in view of completion of 42 years of service as on 1.8.2013.

In reply, learned counsel for the petitioner very fairly submits that the petitioner will not be interested in pursuing his claim for payment of salary for the period of four months but then his all retirement benefit taking his date of retirement on 1.8.2013 should have been paid.

In the considered opinion of this Court since the petitioner himself was contesting this issue by filing a number of

representations and also before this Court claiming payment of salary for four months, this Court would not find any fault in delay of settlement of retirement dues of the petitioner.

Reverting back to the claim of payment of retirement benefit this Court would find that there is no controversy that the petitioner whose date of birth was 1.1.1954 as per his 1970 Matriculation certificate had entered in service on 2.8.1971 at the age of 17 years and 8 months. He thus has taken advantage of the period of four months because no one could have been appointed unless he had become major i.e. 18 years. It is this aspect of the matter which was actually sought to be resolved before retirement of the petitioner by the show cause notice. Now when the petitioner does not want to press also claim for payment of salary for the period 2nd August, 2013 to 31.12.2013 the matter becomes quite simple, inasmuch as the petitioner being a Government servant and having been regularized in service would definitely be entitled for payment of his retirement benefit by not only computing the length of regular service but also earlier work charge period as per the Government decision.

In that view of the matter, this Court would direct the petitioner to submit his pension papers by confining his length of service from 2.8.1971 to 1.8.2013 and after the same is verified by



the competent authority the amount of retirement benefit including monthly pension should be sanctioned and sent to the office of the Accountant General for its being authorized alongwith relevant documents as well as service book so that the petitioner does not get deprived of payment of his retirement benefit on account of delay that may still take place either in the office of the Executive Engineer, Rural Works Department, Work Division, Rajauli or in the office of the Accountant General.

This Court hopes and believes that if the petitioner submits his pension papers as prescribed under the Bihar Pension Rules with all relevant documents, the office of the Executive Engineer shall process the same to ensure that the amount payable to the petitioner on the head of all retirement benefit is sanctioned within a period of three months from the date of submission of pension paper by the petitioner and its also being transmitted to the office of the Accountant General which in turn must ensure that authorization for payment of legitimate amount of pension, gratuity etc. is issued within a period of two months from the date of receipt of pension paper from the office of the Executive Engineer.

It goes without saying that once pension and gratuity is authorized by the office of the Accountant General, its payment

also must be made by the Treasury Officer within a period of one month from the date of receipt of pension payment order and the death cum retirement gratuity order.

The amount of leave encashment and group insurance which has to be paid by the departmental authority also must be paid to the petitioner within the same period, as indicated above.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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