IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2940 of 2013

==

Viveka Nand Prasad Son of Late Anand Lal Das Resident of A/101, Sumeet Sadan, Dhawan Regancy Road No. 4A, P.O. - GPO, P.S. - Gardanibagh, Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Engineer in Chief-cum-Special Secretary (Middle), Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Engineer in Chief-cum-Special Secretary (North), Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
4. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Under Secretary, Command Area Development Department, Under Water Resources Department, Government of Bihar, Patna.
7. The Chief Engineer Darbhanga, Water Resource Department, Government of Bihar, Patna.
8. The Chief Engineer Muzaffarpur, Water Resource Department, Government of Bihar, Patna.
9. The Director, Provident Fund, Government of Bihar, Patna.
10. The Accountant General, Bihar, Patna.
11. The Treasury Officer, Samastipur.

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

==

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 30-09-2015

Heard learned counsel for the parties.

The petitioner has moved the Court for payment of his entire pension, gratuity etc.

It appears that departmental proceedings were started against the petitioner during his service period and upon retirement the same were converted under Rule 43(b) of the Bihar Pension Rules. During the pendency of the writ petition, at the intervention of the Court, final orders were passed in the said proceeding. As per the same, 20% pension for three years was withheld. The gratuity however was paid in entirety.

Learned counsel for the petitioner submits that though the petitioner superannuated on 30.09.2009, sanction of gratuity and issuance of authority by the Accountant General, Bihar was issued only on 28.09.2015. Learned counsel relying upon the order of the Hon'ble Supreme Court in the case of **State of Jharkhand vs. Jitendra Kumar Srivastava** reported in **2013(3) PLJR (SC) 458**, submits that in absence of any statutory provision, withholding of gratuity was impermissible and accordingly, for the delay in payment of gratuity for almost 6 years, the petitioner deserves to be compensated.

Learned counsel for the State submits that because of the pendency of the departmental proceeding, the department had withheld the gratuity and thus there was nothing mala fide about it. Learned counsel relied upon the circular of the State Government in the Finance Department contained in Memo No. P.C. 11-40-98/74-11260 dated 31.10.1974. However, he is not in a position to defend the action of the State in light of the judgment of the Hon'ble Supreme Court relied upon by learned counsel for the petitioner.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, this Court finds that the petitioner has made out a case for grant of compensation for delayed payment of gratuity which was withheld without any authority in law. Accordingly, the respondents are directed to pay simple interest at the rate of 6% per annum on the delayed payment of gratuity to the petitioner. Let the same be paid within two months from the date of production of a copy of this order before the respondent no. 1.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

U		T	