IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5148 of 2014

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P.C. Priyadarshi, aged about 63 years, S/O Late Manoj Ranjan Prasad, Resident of Daldari Road, P.O.- Danapur Cantt, P.S.-Danapur, Patna (Bihar), presently from the District Savings Office (compulsorily retired) from National Savings / NSI (Govt. of India), Hqs at Patna(Bihar).

.... Petitioner.

Versus

1. The Union of India through the Secretary to the G.O.I., M.O.F. (D.E.A.) / Govt. of India, Ministry of Finance (Department of Economic Affairs), North Block, New Delhi.
2. The Joint Secretary to the Govt. of India, Ministry of Finance, Department of Economic Affairs, North Block, New Delhi
3. Dy. National Savings Commissioner, Nagpur through Regional Director, National Savings (Govt. of India), 234 / 4, Acharya, J.C. Bose Road, Nizam Palace, Kolkata 700020
4. Director, National Savings Institute (Govt. of India, 234 / 4, Acharya J.C. Bose Road, Nizam Palace, Kolkata 700020.

.... Respondents

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Appearance :
For the Petitioner/s : Mr. P.C. Priyadarshi (in Person
For the Respondent/s : Mr. Anshuman Singh (CGC).

CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
AND
HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

C.A.V. ORDER
(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)

7 07 -01-2015 The present writ application is preferred against the order, dated 24.10.2013, passed in Original Application No. 550 of 2010 (hereinafter referred to as "the said O.A."), whereby the learned Central

Administrative Tribunal, Patna Bench, Patna, (hereinafter referred to as 'the Tribunal') has rejected the prayer of the writ petitioner-applicant with respect to issues No. (a), (b), (d) and (e) and the prayers, with respect to issues No. (c), (f) and (g), have been remitted to the respondents to re-examine them as per rules and in the light of observations made in the order, dated 24.10.2013, aforementioned.

2. The writ petitioner filed the said O.A. before the Central Administrative Tribunal, Patna Bench, Patna and raised the following issues for determination:

> **(a)** Legality of suspension from 07.03.1995 to 22.10.1997 and again from 11.02.2004 to 17.10.2006 (i.e. date of compulsory retirement).
>
> **(b)** Legality of compulsory retirement order during suspension.
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> **(c)** Payment of retirement due on compulsory retirement i.e. full pension, full gratuity, full leave encashment, counting the period of suspension in two phases as qualifying period service for retirement benefits.
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> **(d)** Allowing increments due to the applicant in April 2004, 2005 and 2006.
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> **(e)** Allowing benefit of 1st and 2nd financial up gradations under ACP Scheme.
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> **(f)** Payment of full salary for the suspension period.
>
> **(g)** Allowing benefit of pay revision as per 6th

CPC recommendation and payment of arrears of subsistence allowance and other arrears accordingly.

3. Though a review application was filed against the order, dated 24.10.2013, aforementioned passed in the said O.A., the same has been rejected being devoid of merit.

4. Before we examine the matter further, it would be relevant to notice the facts of the case in short inasmuch as the petitioner waged a number of legal battles before the learned Tribunal as well as before this Court.

5. The writ petitioner was appointed as District Saving Officer (hereinafter referred to as 'DSO') in May, 1977. While he was working as DSO, Ranchi, under Bihar Region, he was put under suspension, with effect from 07.03.1995, on account of a criminal case registered against him under Section 7 read with Section 13 (2) of the Prevention of Corruption Act, 1988. The suspension order was, however, revoked on 23.10.1997. On revocation of suspension, the petitioner was posted as D.S.O., Patna. In the meantime, criminal trial proceeded, which resulted into conviction of the petitioner by learned Special Judge, CBI, by order, dated 30.08.2003. Against his conviction, the petitioner preferred an appeal before this Court, which is still pending. In view of his conviction, as mentioned hereinbefore, the petitioner was, again, put under suspension, with effect from 11.02.2004, in exercise of powers under Section 19(i) of CCS (CCA) Rules and was, ultimately, compulsory retired on 17.10.2006.

6. The writ petitioner filed O.A. No. 582 of 1995 for grant of subsistence allowance and annual increments. This O.A. was disposed of, on 16.11.1995, with a direction to the competent authority to consider, in accordance with law, the petitioner's grievances. The petitioner, thereafter, filed O.A. No. 45 of 1996 claiming regularization of suspension period from 07.03.1995 to 22.10.1997 and also payment of subsistence allowance. The O.A. No. 45 of 1996 was disposed of, on 26.10.1997, with an observation that prayer for regularization of suspension period can be taken only after finalization of criminal proceedings. O.A. No. 708 of 2004 was filed by the petitioner raising similar issues followed by O.A. No. 708 of 2004, O.A. No. 481 of 2006, C.W.J.C. No. 4087 of 2008 and M.J.C. No. 3046 of 2008.

7. In O.A. No. 481 of 2006, the petitioner challenged the order of compulsory retirement, claimed payment of subsistence allowance, annual increment with effect from April 2004, and regularization of suspension period. O.A. No. 481 of 2006 was partially allowed so far as the leave encashment was concerned, but was dismissed with regard to the other reliefs claimed in O.A. No. 481 of 2006.

8. Being aggrieved, the petitioner filed a writ application, bearing C.W.J.C. No. 4087 of 2008, before this Court. The petitioner appeared in person and he accepted the order, dated 17.10.2006, passed by the Joint Secretary, Government of India (disciplinary authority), whereby he was compulsorily retired from service. On the petitioner's accepting the order of compulsory retirement, a Division Bench of this Court observed that in view of the order of compulsory retirement, the petitioner would be entitled to full pension and full gratuity. The petitioner, thereafter, filed M.J.C. No. 3046 of 2008, which was heard along with C. Rev. No. 117 of 2009 filed by the Union of India.

9. In M.J.C. No. 3046 of 2008, the petitioner raised a grievance that the concerned authorities had failed to make payment of pension and gratuity without taking into consideration the recommendations of 6th Pay Revision Commission and that the respondents were not treating the petitioner's period of suspension as a period spent on duty. A Division Bench of this Court dismissed the contempt application with liberty to the petitioner to raise his grievances before appropriate authorities, who shall look into the matter, and take a decision in accordance with law within four months. The review application, namely, Civil Review No. 117 of 2009, was disposed of in terms of the order passed in contempt application.

10. The petitioner, thereafter, filed a representation before the Joint Secretary to the Government of India, Ministry of Finance, on 08.07.2009. The representation of the petitioner was substantially rejected on 26.02.2010.

11. Being aggrieved, the petitioner filed O.A. No. 550 of 2010 before the learned Tribunal. The learned Tribunal considered the reliefs sought for by the petitioner issue wise and disposed of the same by the order, dated 24.10.2013, aforementioned, which stands impugned in this writ petition.

12. The learned Tribunal has held in the order, dated 24.10.2013, aforementioned that the period of suspension cannot be counted as on duty nor can any direction be given for regularization thereof unless and until the petitioner is acquitted in the criminal case. The learned Tribunal has observed that the petitioner is repeating most of the prayers time and again, which had already been considered and disposed of earlier. The learned Tribunal, therefore, rejected claims under issues No. (a), (b), (d) and (e).

13. We find that the issue of validity of order of compulsory retirement was rightly rejected by the learned Tribunal inasmuch as the petitioner had voluntarily accepted the order of compulsory retirement in C.W.J.C. No. 4087 of 2008, while appearing in person. We also do not find any fault with the order of the learned Tribunal in rejecting the challenge to the suspension order being raised belatedly. The prayers, with respect to annual increments and benefits of 1^{st} and 2^{nd} financial up gradations under A.C.P. scheme, have been rightly rejected in view of Rule FR 54 inasmuch as the criminal appeal passed against judgment of the petitioner's conviction is still pending.

14. The relief Nos. (c), (f) and (g) were dependent upon the final order to pass in the criminal appeal, which is pending in this Court, and, hence, the learned Tribunal rightly refrained from issuing any positive directions. The learned Tribunal has correctly observed that the issues would depend upon the outcome of the criminal appeal.

15. Thus, we find that the view, taken by the learned Tribunal, is fair and reasonable and we do not find any ground for taking a contrary view.

16. In the result, this writ application is, in our considered view, devoid of merit and is accordingly dismissed.

(Samarendra Pratap Singh, J.)

I. A. Ansari, J.: I agree.

(I. A. Ansari, J.)

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