

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.49 of 2014
IN
Civil Writ Jurisdiction Case No. 23265 of 2012
With
Interlocutory Application No.141 of 2014
And
Interlocutory Application No. 142 of 2014
In
Letters Patent Appeal No.49 of 2014

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1. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
2. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur
3. The Finance Officer, Tilka Manjhi Bhagalpur University, Bhagalpur
..... Appellant/s

Versus

1. Dr. Hari Shankar Prasad Singh, son of late Rajeshwar Prasad Singh, Resident of Manjhaul Sadan, Mallik Tola, Police Station And District- Banka.
Writ Petitioner-Respondent 1st Set.
2. The Principal, P.B.S. College, Banka, District- Banka
..... Respondent 2nd Set.

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Appearance :

For the Appellant/s : Ms. Mallika Mazumdar, Advocate
For the Respondent/s : Mr. Rajib Ranjan Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-02-2015

This Letters Patent Appeal is filed by the appellants against the order dated 25.04.2013 passed by the learned Single Judge in CWJC No.23265 of 2012.

The 1st respondent filed the writ petition claiming the relief of interest on the pensionary benefits. The learned Single Judge allowed the writ petition.

Heard Ms. Mallika Mazumdar, learned counsel

for the appellants and Sri Rajiv Ranjan Jha, learned counsel for the 1st respondent.

The facts, in brief, are that the 1st respondent retired as Professor from the appellant University in the year 2000. However, his pensionary benefits were not settled, much less, the amounts were paid to him. He filed CWJC No.15576 of 2008 in that behalf. The writ petition was disposed of on 29.10.2009 observing that in case, the 1st respondent filed a representation, the appellants shall decide the matter and pay the pension, if it is found to be payable. Thereafter, the 1st respondent filed MJC No.2391 of 2010. It is only then, that the pensionary and other benefits were paid to the 1st respondent. Taking note of the factum of payment, the MJC was closed.

The 1st respondent filed the present writ petition claiming interest on delayed payment of his pensionary benefits. The appellants filed counter affidavit opposing the writ petition. According to them, the claim for interest is barred by *res judicata* and waiver and that the writ petition deserves to be dismissed. The learned Single Judge allowed the writ petition.

The question of *res judicata* would have arisen, if any order of adjudication was passed in CWJC No.15576 of 2008. Except making an observation that the 1st

respondent can make a representation claiming retirement benefits, no adjudication as such was undertaken. The question of waiver also does not arise.

The scope of MJC was limited to one of enforcing the orders passed in CWJC No.15576 of 2008.

It is fairly well settled that an appointing authority is under obligation to pay interest on delayed pensionary benefits. In fact, the relevant Pension Rules provide for payment of interest at the rate of 5%, irrespective of the cause of delay. Therefore, we do not find any ground to interfere with the order passed by the learned Single Judge. However, we reduce the rate of interest to 5% to be in conformity with the Pension Rules. The interest, on the amount of pensionary benefits, calculated from the date of retirement till the date of payment of the pensionary benefits shall be paid within three months from today.

Interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

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