

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 687 of 2009

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Ram Chandra Thakur, Son of Late Ram Sarwal Thakur, Resident of
Village- Harpur, Police Station- Peor, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Department of Water Resources, Government of Bihar, Sichai Bhawan, Patna.
2. The Under Secretary Department, Department of Water Resources Government of Bihar, Old Secretariate, Patna.
3. The Chief Engineer Water Resources Departent (Irrigation) Anisabad, Patna.
4. The Treasury Officer, Sichai, Bhawan, Patna.
5. The District Provident Fund Officer, Patna.
6. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

5 06-08-2015 Heard learned counsel for the petitioner and
learned AC to GA-13 for the State.

The writ petition was initially filed in the year 2009 seeking grant of pensionary benefits along with interest. The petitioner superannuated in the year 2004 from the post of Junior Engineer while still being under suspension. The petitioner was suspended on 29.07.1999 on the ground that a case under various sections of the Indian Penal Code including that under section 498A has been lodged against his son and other family members by the daughter-in-law.

Learned counsel for the petitioner submits that without going into the merits of the suspension order, as far as pensionary benefit is concerned, it cannot be a ground to withhold pension since the only stipulation for withholding of the pension is where there is a departmental proceeding and



the allegation is of misconduct and cause of loss to the State exchequer. It is submitted that later on in the year 2008, the petitioner was acquitted but still the departmental proceeding which was solely on the ground of pendency of the said case was not concluded and finally in the year 2010, the same was dropped. Learned counsel submits that even then he was paid the retiral benefits only in the year 2012. Learned counsel submits that without there being any fault on the part of the petitioner for non grant of the pensionary benefit till the year 2012 i.e., after eight years of his superannuation, has made him eligible for grant of interest on the delayed payment.

Learned counsel for the State relying on the counter affidavits filed submits that the departmental proceeding was going on and only after the conclusion of the criminal case, the departmental proceeding also was finally concluded and further that for computation of the pensionary benefits, various information was sought from the State of Jharkhand where the petitioner was posted for sometime and thus there was delay in grant of the benefits.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, this Court is unable to appreciate the explanation given by the respondents in the present case. The petitioner having superannuated in the year 2004 and the departmental enquiry being solely for the criminal case and that too under various sections of the Indian Penal Code relating to complaint by the daughter-in-law ought not to have been made a ground for

withholding of entire pensionary benefits of the petitioner, even though the departmental proceeding could have proceeded. Moreover, when the petitioner was acquitted in the year 2008 and after that also pensionary benefit has been paid to the petitioner only in the year 2012 on the ostensible ground that information was sought from the State of Jharkhand where he was also posted, is not, in the considered opinion of the Court a valid ground for such delay. Thus, taking an overall view, this Court deems it a fit case where interest should be awarded to the petitioner. The view of the Court is also supported by the decision of the Hon'ble Supreme Court in the case of **D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.** reported in **(2014) 8 SCC 894**; **State of Jharkhand vs. Jitendra Kumar Srivastava** reported in **2013(3) PLJR (SC) 458** as well as **S.K. Dua v. State of Haryana** reported in **AIR 2008 SC 1077**.

Accordingly, the respondents are directed to pay 12% interest to the petitioner on his retiral benefits from the day it became due till the date of payment. Such payment be made within eight weeks from the service of a copy of this order upon respondents no. 2 and 3.

The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

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