

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.989 of 2015

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Vishwanath Prasad Verma, Retired Junior Engineer (Civil) Rural Works Department, Works Division - 2, Katihar, Son of Late Shivnandan Prasad Verma, resident of village - Shivpuri, Ward No. 14, Saharsa, P.O. + P.S. and District - Saharsa.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, New Secretariat, Bailey Road, Patna.
2. The Chief Engineer - 2, Rural Works Department, Old Secretariat, Patna.
3. The Superintending Engineer, Rural Works Department, Works Circle, Purnea, At P.O. + P.S. and District - Purnea.
4. The Executive Engineer, Rural Works Department, Works Division, Barsoi, Katihar, At P.O. + P.S. and District - Katihar.
5. The District Provident Fund Officer, Government of Bihar At P.O. + Dist. Katihar.
6. The Under Secretary, Irrigation Department, Sichai Bhawan, Kranti Marg, Patna - 800001.
7. The Accountant General Bihar, Vir Chand Patel Marg, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ramnandan Kr. Sinha, Advocate.
Mr. Nilesh Kumar Nirala, Advocate.
For the Respondent State : Mr. Uday Prasad, A.C. to G.P.-22
For the Accountant General : Mr. Uday Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 08-12-2016

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the Accountant General.

2. Learned counsel for the petitioner submits that after
filing of the writ petition, the grievances of the petitioner in respect of
payment of amount of Pension, Gratuity and Provident Fund have
already been redressed but now the grievance of the petitioner is



restricted only to payment of interest on delayed payment of Pension and Gratuity amount.

3. It is submitted that the petitioner retired from service on 30th June, 2011, but payment of Pension and Gratuity was made to him between May, 2015 and March, 2016. The long delay in releasing the due amount has caused monetary loss to the petitioner. It is submitted that since there was no fault on the part of the petitioner, the Respondents ought to have paid interest at the market rate over the amount paid to the petitioner after five years from the date it became due to be paid.

4. On the other hand, learned counsel for the State submits that though, some delay has occurred in paying the retiral dues to the petitioner, the writ petition may be disposed of, as the grievance of the petitioner has been redressed. He has submitted that there was no deliberate delay on the part of the State in paying the post retiral dues to the petitioner and, hence, the petitioner is not entitled for payment of any interest for the delayed payment.

5. I have heard learned counsel for the parties and perused the materials on record. There is absolutely no dispute to the fact that without any fault on the part of the petitioner, the retiral dues of the petitioner under the heads of Pension and Gratuity was paid to him almost five years after his retirement. It would be apparent from



the counter affidavit filed on behalf of the Respondents No. 1, 3 and 4 that a substantial amount of over 20,00,000/- (Twenty lacs) under the heads of Pension and Gratuity was withheld by the Respondents for almost five years. The only compensation which can be given to the petitioner for the aforesaid inordinate delay in making payment of retiral dues is by allowing payment of interest over the amount illegally withheld by the Respondents. In this connection, reference may be made to the case of **State of Kerala and Ors. Vrs. M. Padmanabhan Nair**, reported in (1985) 1 SCC 429 of which I may just quote paras 1 and 2:

“1. Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

2. Usually the delay occurs by reason of non-production of the L.P.C. (last pay certificate) and the N.L.C. (no liability certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every Government servant is



very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these two documents should not be completed at least a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over-emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate should commence at the expiry of two months from the date of retirement.”

6. In view of the aforesaid judgment of the Supreme Court, there is no escape that for this inordinate delay in payment of retiral dues, the petitioner is entitled to interest, as due to delay in payment, the petitioner, in fact, has been deprived of his payment by erosion of money value that was due and payable in the year 2011.

7. I, accordingly, direct that the petitioner would be entitled to receive interest @ 5 percent per annum from the date the amount of Pension and Gratuity was due up to the time it has been paid. It shall be the responsibility of Respondents No. 2 to 4 to see that the amount of interest is paid to the petitioner within a period of



two months failing which the Respondents No. 2 to 4 shall be liable to be proceeded for contempt.

8. With the aforesaid observation and direction, the writ petition is disposed of.

9. The Registry is directed to transmit a copy of the order to the Respondents Nos. 2 to 4 forthwith.

(Ashwani Kumar Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

