

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2499 of 2015
In
Civil Writ Jurisdiction Case No. 562 of 2014

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Kapileshwar Prasad Rai, son of Late Soman Rai, R/O Village-Hetanpur
P.O.Madhopur, PS-Patory and Distt-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar Through Mr. Ram Chandra Dutta District Magistrate Samastipur,
2. Mr. Brajesh Ojha, The District Education Officer, Samastipur,
3. Mr. Ram Chandra Mandal, the District Programme Officer (Est.) Samastipur.
4. Mr. Ram Chandra Mandal, the Sub Divisional Education Officer, Mohanpur, Samastipur.
5. Mr. Indra Kant Singh, The Area Education Officer, Mohiuddin Nagar, Samastipur.
6. Mr. Indrajeet Kumar Singh, the Block Education Extension Officer, Mohanpur, Samastipur.
7. Mr. Indrajeet Kumar Singh, The Block Teacher Drawing and Disbursing Officer, Mohanpur Bidgama, Samastipur.
8. Mr. Sanjay Kumar, The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sinha -Advocate

For the Respondent/s : Mr. Mohan Kumar Singh, AC to SC-5

For Accountant General: Mr. Sanjay Kumar, -Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

10 04-07-2016 Heard learned counsel for the petitioner, learned AC

to SC-5 as well as learned counsel representing Accountant

General.

2. The instant MJC has been drawn up on account of

non compliance of order dated 10.02.2015 passed in CWJC

No.562/2014 whereunder at para-9, it has been held as follows:-

“This exercise of making full and final payment of all amount of retirement benefit to the petitioner must be completed by all concerned including the District Education Officer, Samastipur and the officer of the Accountant General as also any other government officer including the Treasury Officer, Samastipur by ensuring payment of all retirement benefit of the petitioner within a period of two

months from the date of receipt of this order.”

3. It has been submitted on behalf of learned AC to SC-5 that all kinds of retiral benefits available to the petitioner, a retired teacher had already been paid and so, the direction of the order is found fully complied with.

4. The second part of the order impugned is found under para-10 of the same which reads as under:-

It goes without saying that since delay in payment of the retirement benefit of the petitioner is totally attributable to the District Education Officer, Samastipur, he will be also liable to pay interest from his pocket on the amount of retirement benefit at the rate of 5% per annum for the period of February 2006 and till the date of payment as per the notification of the Finance Department being Notification No. 3155 dated 7.11.1981. The present D.E.O. having paid such amount of interest from his pocket to the petitioner would be at liberty to realize the same on proportionate basis from his predecessors in office who had been posted as D.E.O., Samastipur since February 2006 or any one other erring officer/or employee found responsible for causing delay in making of retirement benefit to the petitioner.

5. After going through the same, it is evident that District Education Officer, Samastipur has been held accountable for the delay whereupon he has been directed to pay interest from his pocket at the rate of 5% per annum from February 2006 till the date of payment as per Notification of the Finance Department bearing no. 3155 dated 07.11.1981. The aforesaid paragraph also discloses that the present DEO, Samastipur has paid the aforesaid



amount of interest from his pocket to the petitioner and on account thereof, would be at liberty to realize the same on proportionate basis from his predecessors in office who were posted as DEO, Samastipur since February 2006 or any one other erring officer and/or employee found responsible for causing delay in making payment of retirement benefit to the petitioner.

6. It has been submitted on behalf of the petitioner that some of the officials had already paid the amount in proportionate for their laches while others are not paying the same and for that the respondents should be directed so.

7. An LPA bearing no. 1219/2015 has been raised on behalf of one Brajesh Kumar Ojha, DEO and the same was disposed of with the following modifications:-

“The erring officials, who have delayed the retiral benefits, shall pay the amount of interest from the period each one of them has delayed the payment of retiral benefits. If any of the officers fails to pay the said amount, the State Government shall recover the amount from the salary or the pension payable in accordance with law after serving a show notice. The amount, so realized, shall be disbursed to the writ applicant as and when the amount is realized by the Stated Government.

8. After having parallel scrutiny of para-10 of CWJC No. 562/2014 as well as order of LPA No. 1219/2015, it is evident that it is not clear from para-10 of CWJC No. 562/2014 that whole amount has been paid by the then DEO, Samastipur or the amount proportionate to his tenure. However, the subsequent order dated

25.04.2016 passed in LPA No. 1219/2015 suggests that the then DEO, Samastipur had paid amount of his tenure only.

9. That being so, the State should endeavour to comply with the order dated 25.04.2016 passed in LPA No.1219/2015 and further will deduct the amount and credit it in favour of petitioner’s account and further, the aforesaid exercise must be completed within the reasonable period of nine months preferably, failing which, petitioner will be at liberty to raise his grievance.

10. With the aforesaid direction, the instant MJC is dropped.

(Aditya Kumar Trivedi, J)

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