

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22023 of 2014

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1. Uday Bhan Pathak S/o Late Deen Bandhu Pathak, Resident of Mohalla-Bhatwaliya, House No.- 157, Ward No.- 2, Beside Police Line (South), Post- Deoria, Police Station- Kotwali Deoria, District- Deoria, Uttar Pradesh

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Agriculture Production Commissioner, Bihar, Patna
3. The Principal Secretary, Department of Finance, Bihar, Patna
4. The Director of Agriculture, Department of Agriculture, Bihar, Patna
5. The District Magistrate, Siwan
6. The Accountant General (A & E) II, (Bihar), Patna
7. The District Agriculture Officer, Madhubani
8. The Sub-Divisional Officer, Benipatti, Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra

For the Respondent/s : Mr. Raghvendra Kumar SC-22

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL

ORAL ORDER

2 20-08-2016 Heard Mr. Ajit Kumar for the petitioner and SC-22

for the State.

A counter affidavit is filed on behalf of the respondent nos. 2 and 4. There is no rejoinder.

The petitioner having served the Government in the Agriculture Department as Agriculture Inspector, retired from service on 30.11.2002. The respondent State sanctioned the pension/ gratuity in September, 2003. The petitioner had to fight a litigation for payment of his post retiral dues. The same was, ultimately, disposed of on 03.11.2010. The Court permitted the petitioner to pray for interest on the pension/ gratuity in the light



of the Circular of the Government dated 07.11.1981. As there was delay in consideration and disposal of his claim, the Contempt application was also filed vide MJC No. 5244 of 2011. This Court, by a proceeding dated 24.1.2014, permitted the petitioner to raise a claim for payment of the interest in the light of the Circulatory provisions of the Government before the concerned authority. The petitioner thereafter filed a representation which was considered and the prayer for payment of interest was declined vide order dated 26.07.2012 contained in memo no. 1260 (Annexure-12). Aggrieved thereby the present writ petition is filed.

It has been submitted that although the pension/gratuity was sanctioned on 25.09.2003, but the same was actually paid belatedly. Referring to the aforesaid Circular of the Government issued in the Department of Finance, it is submitted that under Clause A thereof, in case there is delay of more than 03 months in paying the dues of pension/gratuity for no fault on the part of the employee the respondent- State is required to pay along with interest at the rate of 5%.

On the basis of the pleadings on record, it is difficult for this Court to appreciate as to under what circumstances the delay, if so, occurred. It is also not evident from the record that as to when actually the payment of pension/gratuity was authorized and made to the petitioner. These are purely

questions of fact which cannot be appreciated in writ jurisdiction of the Court. However, if there is delay on the part of the respondents without there being any contributory delay on the part of the employee then, according to the aforesaid Circular of the Government, the employee is entitled to interest on the dues payable under the head(s) pension/gratuity.

Considering the above, the writ application stands disposed of permitting the petitioner to make fresh representation before the respondent no.4 (The Director of Agriculture, Department of Agriculture Bihar, Patna) for payment of the interest on the delayed payment of the pension/gratuity. If any such representation is filed within 03 weeks, the same shall receive due consideration and disposal at the hands of the said respondent unprejudiced by the order dated 26.07.2012 (Annexure-12).

(Kishore Kumar Mandal, J)

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