

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9514 of 2014

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1. Dr. Ramadhar Sharma S/o Sri Shyam Nandan Sharma Resident of Jawahar Tola, Bus Stand Road, at P.O. Arrah, P.S. Arrah Nawada, District Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, New Secretariat Building, Patna.
2. The Principal Secretary, Department of Health, New Secretariat Building, Patna.
3. Joint Secretary, Department of Health, New Secretariat Building, Patna.
4. Civil Surgeon-cum-Chief Medical Officer, Rohtas at Sasaram.
5. The Accountant General, Bihar, Birchand Patel Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Prasad Singh
For the Respondent/s : Mr. Raju Giri (GP-30)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 20-07-2016

Heard learned counsel for the parties.

The petitioner had joined Bihar Health Service on 16.07.1981. He met with an accident on 16.10.2009. After long hospitalization, he applied for voluntary retirement, which was accepted with effect from 17.03.2011.

The present case has been filed seeking direction to the respondents to pay him post retiral dues with interest at the rate of 18% per annum.

A counter affidavit has been filed taking specific stand that all admissible dues have been paid to the petitioner. This fact has not been disputed by the learned counsel for the petitioner. He, however, submits that the retiral dues have been paid to the petitioner much

after filing of the present writ application and, therefore, the petitioner is entitled to adequate interest for delayed payment of retiral dues.

He has placed reliance on a decision of this Court reported in **2008(4) PLJE 533 (Sadhu Sharan Singh Vs. State of Bihar and others)**. He has also submitted that it is true that the petitioner filed his pension papers in the year 2015, after filing of the writ application, but according to him, the petitioner was awaiting the decision of the authorities with regard to regularization of the period of his absence from the date of his accident on 16.10.2009 till the date with effect from which his application for voluntary retirement was accepted, i.e., 17.03.2011. He has submitted that had the application for regularization for the said period been considered and disposed of within a reasonable time, the petitioner would have submitted his pension papers well within time.

Learned counsel appearing on behalf of the State of Bihar opposing the prayer made on behalf of the petitioner for his entitlement of pension and pensionary benefits in the light of the judgment of this Court in case of Sadhu Sharna Singh (supra) has submitted that admittedly there has been delay on the part of the petitioner in filing the pension papers. He, accordingly, submits that the petitioner is not entitled for interest for the delayed payment since the same is attributable to him also. From the records, I find that there is no explanation in the counter affidavit as to why the department took two years to consider the petitioner's application for regularization of his service for the period when he was absent from 18.10.2009 to 16.03.2011. The laches on the part of the respondent does not have

any explanation on record.

In the facts and circumstances of the case, though I do not consider it to be a fit case for grant of interest as awarded by this Court in the case of **Sadhu Sharan Singh** (Supra), in my opinion, the interest of justice, would be subserved if a sum of Rs. 50,000/- is paid to the petitioner for the delayed payment on the part of the State Government in taking decision for regularization of his period of absence. In the facts and circumstances of the case, I direct that the Principal Secretary, Health Department, Government of Bihar, Patna shall ensure payment of this amount to the petitioner within a period of two months from today.

This disposes of the application.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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