

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11997 of 2015

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Chhavinath Sharma son of Late Niut Sharma, resident of village- Suhwal,
P.S.- Suhwal, District- Ghajipur (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Patna
2. The Chief Engineer, Mechanical, Water Resources Department, 72/84, New Punai Chak, Patna
3. The Superintending Engineer, Mechanical Circle, Water Resources Department, Gaya camp at Dehri, District- Rohtas
4. The Executive Engineer, Irrigation Mechanical Division, Dehri
5. The District Provident Fund Officer, Rohtas at Sasaram
6. The Director, Provident Fund Directorate, Pant Bhawan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar
Mr. Vishwanath Ram
For the State : Mr. Ravi Bhardwaj, AC to GA-13.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 22-10-2016 Heard learned counsel for the petitioner and

learned counsel for the State.

The petitioner has approached this Court for a
direction upon the respondents to pay statutory interest on the
GPF amount.

The petitioner had retired from service from the
post of carpenter on 31.1.2000. He filed his application for final
withdrawal of GPF amount on 5.2.2002 and accordingly
sanction letter dated 15.5.2002 for Rs. 1,49,528/- was issued in
which interest for six months after the retirement was provided



but no interest was paid for the period from the date of the application for withdrawal and the date of issuance of the authority letter for which period interest was calculated in the year 2008 and an authority letter dated 22.11.2008 for an amount of Rs. 3732/- was issued. The admitted position is that the petitioner did not receive the amount because it was defalcated in the office of the Executive Engineer, Respondent No. 4.

The petitioner had approached this Court by filing a writ petition being CWJC No. 5333/2008 which was disposed of along with other batch of writ petitions on 29.8.2008 with the direction for payment of GPF amount. The order not having been complied, a contempt application being MJC NO. 4153 of 2009 was filed in which the petitioner had controverted the stand of the respondents that he had received the amount by saying that forgery had been committed of his signature. The contempt application was disposed of with the direction to the Director, Provident Fund to consider and dispose of the petition filed by the petitioner and after getting the enquiry held regarding the genuineness of the signature of the petitioner. Thereafter the petitioner was again compelled to approach this Court by filing MJC No. 198/2012 which was



disposed of by order dated 22.1.2014 with liberty to the petitioner to file a representation before the Director, Provident Fund for the purpose and he was to consider and pass appropriate order in accordance with law. Thereafter the impugned order dated 16.2.2015 has been passed by the Director, Provident Fund Directorate by which the representation of the petitioner has been rejected on the ground that the Directorate had issued authority letter dated 15.5.2012 for the amount which was also debited from his GPF Account and thereafter defalcation has taken place in the office of the petitioner's Department and therefore, the responsibility of the Provident Fund Directorate comes to an end after finally issuing the authority letter. Aggrieved by the same the petitioner has filed the present writ application.

Learned counsel for the petitioner submits that the petitioner is entitled to statutory interest at the very least from the date of the application for withdrawal apart from prior six months period till the date of payment. The petitioner cannot be held responsible for any such delay whether it be on account of the delay in issuance of authority slip or final payment of the same due to the action or inaction of the respondent-authorities. Thus, it is submitted that so far as the petitioner is concerned,



his right to receive statutory interest till the date of payment cannot be denied.

Learned counsel for the State, on the other hand, has sought to support the order of the Director, Provident Fund Directorate on the ground stated therein.

On a consideration of the facts and circumstances, this Court is of the considered view that the petitioner cannot be denied the statutory interest for the period from the date of his application for withdrawal till the date of payment, whether the delay in payment is caused in issuance of authority slip or on account of some other action or inaction of the authorities of the State it cannot be of any consequence upon the petitioner and the right of the petitioner to receive statutory interest arises out of the relevant statutory rules prevailing at the relevant time.

The matter in which this Court had directed the Provident Fund Authorities to pass speaking order was not really as to whether the Directorate of Provident Fund is liable for payment of statutory interest or someone else. In my view, the petitioner would squarely be entitled to the payment of statutory interest. The rest is a matter of adjustment between different departments of the State which is for them to make.



Learned counsel for the petitioner also prays for penal interest in terms of the directions of this Court passed in CWJC No. 5333/2008. In my view, on account of the facts stated above, the petitioner cannot be held entitled to any penal interest in the matter as it was not in the usual course that any such delay had occurred rather it was on account of the action of one of the employees of the office which resulted in defalcation of the amount already sanctioned to the petitioner.

The writ application is, accordingly, allowed. The impugned order dated 16.2.2015 of the Director, Provident Fund Directorate is quashed and the respondents are directed to ensure that the payment of statutory interest is made from 15.5.2002 till the date of final payment of the amount to the petitioner.

Let the aforesaid amount be paid to the petitioner within a period of two months from the date of receipt/production of a copy of this order.

(Ramesh Kumar Datta, J)

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