

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12716 of 2012

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1. Regional Provident Fund Commissioner (Pension) Employees Provident Fund
Organization, Regional Office, Bhavishya Nidhi Bhawan, Road No.6, R. Block,
P.S.- Sachivalaya, District- Patna.

.... Petitioner/s

Versus

1. The Bihar Human Rights Commission, 9, Bailey Road, Patna
2. The Secretary, Bihar Human Rights Commission, 9, Bailey Road, Patna
3. The Branch Manager, Punjab National Bank, Dehri-On-Sone, Rohtas
4. The Branch Manager, Punjab National Bank, Boring Road Branch, Patna
5. Sri Tulsi Ram Prasad S/O Not Known Village-P.O. & P.S.- Tilauthu, District-
Rohtas, Pin-821312.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha

Mr. S.K. Sinha

For the Respondent/s : Mr. Chakrapani

Mr. Dipak Kumar

Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 12-01-2016

The present writ petition filed under Article 226 of the
Constitution of India seeks to assail the order dated 8.9.2011 passed
by the Chairperson of the Bihar Human Rights Commission (for short
'the Commission') in File No. BHRC/COMP. 2399/10. The
Commission, on appreciating the contention of the parties, directed
for payment of a sum of Rs. 50,000/- as compensation to the
applicant-Respondent no. 5. The Commission, in the order, held as
under:-

“The only point for consideration is whether
for non-payment of pension the applicant should be
paid compensation. The explanation of the
Department is not at all sufficient, and the



Commission is satisfied that non-payment was the result of the laches on the part of the office of the Regional Provident Fund Commissioner, if not deliberate. If there was any confusion it could have been sorted out within a reasonable time. It is not a case of delay of weeks or months- the applicant remained without payment for about five years. He was a low paid employee and considering the amount of pension it is not difficult to visualize the hardships which he must have suffered on account of non-payment. Non-payment of pay/pension results in financial hardships and therefore impinges on one's human rights. It is not possible to undo the past but the hardships can be somewhat compensated by awarding compensation which in the facts and circumstances is quantified at fifty thousand rupees.

The Commission would accordingly direct Regional Provident Fund Commissioner (Pension) Patna to pay sum of rupees fifty thousand as compensation to the applicant within six months and submit compliance report by 31.10.2011.”

I have heard Mr. Prashant Sinha for the petitioner and

Mr. Chakrapani for the respondent no. 5.

It has been submitted that on account of bifurcation of the erstwhile existing State of Bihar, two Pension Payment Orders were issued authorizing pension in favour of the Respondent no. 5. This called for a vigilance enquiry. The Branch Manager of the concerned branch at Dehri was advised to stop payment of pension vide order dated 1.2.2007 (Annexure-1). The explanation was sought from the Bank as well as the Respondent no. 5. The Branch Manager vide communication dated 21.2.2008 (Annexure-2) clarified that the respondent no. 2 was paid pension in the light of two P.P.Os up to

November, 2006. On verification of S.F. Account, there is no case of double payment of pension to the pensioner on the strength of two P.P.Os. Still, the Respondent no. 5 was not paid the pension which propelled him to approach the Commission for a direction to pay the pension and to compensate him on account of unjustified withholding of pension for several years.

It has been argued that on account of vigilance enquiry initiated into the circumstances in which two P.P.Os were issued in favour of Respondent no. 5, the payment of pension was delayed. There was no deliberate design behind such stopping of payment of pension to the Respondent no. 5. The Commission erred in not appreciating this aspect of the matter and while directing for payment of the pension including the arrears thereof also directed for payment of compensation to him. The order directing payment of compensation merits to be interfered with and quashed.

Counsel for the private respondent, on the other hand, supported the order passed by the Commission. It has been urged that the exercise of power of judicial review does not call for interference with the order. Indisputably, there was no fault on the part of the Respondent no. 5. It was the delay and laches on the part of the petitioner which resulted in non-payment of pension to the Respondent no. 5 for about 05 years. The Commissioner has taken

into consideration all relevant aspects and directed for payment of compensation.

As noticed above, the Commission in its order on appreciation of the relevant facts recorded its satisfaction that non-payment of meagre pension for more than 05 years was the result of the latches on the part of the office of Regional Provident Fund Commissioner which was, however, not deliberate. The writ petitioner on receiving the clarification from the bank vide communication dated 21.2.2008 (Annexure-2) could have released the pension in favour of the petitioner which was, however, not done. After the order was passed by the Commission, the writ petitioner consulted the Vigilance Department and even without getting any approval in this regard permitted the petitioner to draw pension including arrears but after lapse of several years. It is sheer indolency on the part of the office of the writ petitioner.

In exercise of the jurisdiction under Article 226 of the Constitution of India, the Court will not re-appraise the facts. On collating the materials placed before the Commission, it was satisfied that it was a case of delay and latches on the part of the petitioner which prevented the respondent no. 5 from drawing his pension for several years. This Court would not reappraise the circumstances under which the payment of pension to respondent no. 5 was withheld

for several years. In such circumstance when the statutory body on appraisal of relevant facts recorded its satisfaction that non-payment was the result of the laches on the part of the office of the writ petitioner then this Court would not unsettle the said finding or the satisfaction of the Commission in exercise of its power of judicial review unless it is demonstrably shown to be wholly perverse or irrational.

While hearing the matter, this Court directed for deposit of the compensation amount with the Bank from where the petitioner used to draw his pension. It has been informed that the said compensation amount has been deposited with an advice not to disburse the same in favour of the respondent no. 5 until disposal of the writ petition. In the light of what I have observed above, I am unable to find any reason to interfere with the order.

The writ application fails. It is accordingly dismissed. The petitioner shall be entitled to withdraw the amount of compensation deposited in the Bank by the writ petitioner as per the order of the Commission.

There shall be no order as to costs.

(Kishore Kumar Mandal, J)

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