

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14910 of 2012

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Prem Shankar Prasad Verma S/O Late Chhtarbhuj Sahay, Resident of
Anand Vihar Colony, Ambedkar Patna, Quarter No. A/57, P.O. B.V.
College, P.S. Shastrinagar, District Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna.
3. The Joint Secretary Engineering Cell, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna.
4. The Deputy Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna.
5. The Engineer-in- Chief, Water Resources Department Government of Bihar, Sichai Bhawan, Patna.
6. The Accountant General, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajey Kumar, Advocate.

For the Respondents : Mr. Alok Ranjan, AC to GA-13.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 30-01-2016 Heard learned counsel for the petitioner as well as
counsel for the State.

The petitioner was appointed on 08.08.1972 as Assistant Engineer in the Irrigation Department, Government of Bihar. He superannuated on 30.06.2003. The petitioner seeks interest on delayed payment of salary as well as retiral dues after due revision of pay scale. In support of his submission that he would be entitled to interest, the petitioner has relied upon decisions in case of *S.K. Dua v. State of Haryana, reported in*

2008 (3) SCC 44 particularly paragraph 14, R.D. Rao v. Chairman & M.D. Punjab National Bank & Ors. (2001) 9 SCC 396 and Ram Sumer Ahair v. The Union of India & Ors. 2004 (1) PLJR 158.

Counsel for the State has opposed the relief sought for by the petitioner. He submits that the retiral dues of the petitioner was withheld as he was facing more than one departmental proceeding. In one of the proceedings, finding of guilt was recorded and punishment of deduction of five per cent of pension for a period of five years was awarded in the year 2007. The petitioner challenged the order of punishment in this Court in CWJC No. 13991 of 2007. The writ application was allowed on 09.10.2009 and the order of punishment was quashed. Soon thereafter the office processed the retiral dues which was promptly paid in the year 2010.

It is further case of State that ACP scheme was introduced on 25.06.2003, though made effective from 09.08.1999. As the departmental proceeding was initiated against the petitioner on 24.03.2003, prior to introduction of scheme he was paid only 90% of the pension and gratuity and was not provided the benefit of ACP scheme. The group insurance and provident fund were already sanctioned and paid. The petitioner,



however, does not deny that he has not been paid his retiral benefits. However his case is that as this Court had quashed the order of punishment on 09.10.2009 in CWJC No. 13991 of 2007, he would be entitled to interest on retiral benefits with effect from the date of his retirement. In the case of S.K. Dua (supra), the departmental proceeding was initiated against him prior to his retirement and after his retirement the same continued under the relevant pension rules and ultimately concluded in his favour. In spite of the order of the High Court, the retiral dues was not paid after for four years. In such circumstances, the Hon'ble Apex Court directed that the appellant S.K. Dua would be entitled to interest on his retiral dues. Para-14 of the judgment which is relevant in the context is hereinbelow:

“14. In the circumstances, *prima facie*, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of



statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

The petitioner has next placed reliance upon the decision in case of ***R.D. Rao v. Chairman & M.D. Punjab National Bank & Ors., (2001) 9 SCC 396***. In the aforesaid case, the Hon’ble Apex Court found appellant entitled to interest as there was delay in payment of dues. In the instant case the situation is different as soon as the High Court quashed the order of punishment the petitioner was paid his retiral and other dues.

In ***Ram Sumer Ahair v. The Union of India & Ors., 2004 (1) PLJR 158***, the Division Bench held that if there is delay in payment of retiral dues, the employee would be entitled to payment of interest. The said decision would not be applicable in the facts of the instant case, as there was no deliberate or

intentional delay in payment of retiral dues. The petitioner was facing as many as three departmental proceedings. In one of the proceedings the petitioner was even held guilty and awarded punishment also in the year 2007 which was set aside by this Court in the year October 2009 in CWJC No. 13991 of 2007. Soon, thereafter, the pension of the petitioner was processed and he was granted all his retiral dues.

As such I find that no case for payment of interest has been made. The writ application is accordingly, disposed of.

(Samarendra Pratap Singh, J.)

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