

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16405 of 2012

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Chandra Deo Sharma son of Late Shibjee Sharma Resident of Village and P.O-
Berna, P.S- Barh, District- Patna, retired Headmaster, Middle School, Sarhan, P.S
and Anchal- Pandarak, District- Patna, State- Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Chief Secretary, Government of Bihar, Patna.
3. Principal Secretary, Human Resources Development (Primary Education)
Department, Government of Bihar, Patna.
4. Director, Primary Education, Human Resources Development Department,
Government of Bihar, New Secretariat, Patna.
5. Divisional Commissioner, Patna Division, Patna.
6. District Collector/ District Magistrate, Patna.
7. District Education Officer, Patna.
8. District Programme Officer, (Establishment), Patna
9. The then District Superintendent of Education, Patna.
10. District General Provident Fund Officer, Patna.
11. The District Treasury Officer, Patna.
12. Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyam Kishore Sinha, Advocate
For the State : Mr. Prashant Kumar, A.C. to S.C.-11
For the Accountant General : Mr. Kumar Priya Ranjan, S.C.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-11-2016

The petitioner retired on 31st December, 2002 from the post
of Headmaster, Middle School, Sarhar, P.S.- Pandarak, District-
Patna. The present writ petition has been filed for issuance of
direction to the respondents to pay 18% compound interest on the
delayed payment of retiral benefits of the petitioner and the arrears of
General Provident Fund amount with effect from 22.12.1966 to
30.11.1976.



2. The short facts of the case are that while the petitioner was in service, in a disciplinary proceeding initiated against him, an order of dismissal was passed on 17th July, 1999 by the District Superintendent of Education, Patna. Being aggrieved by the order of dismissal, an appeal was preferred by the petitioner before the Divisional Commissioner, Patna, vide Service Appeal Case No.38 of 2001, which was also dismissed by the Divisional Commissioner, Patna, vide order dated 14th June, 2005 and the order of dismissal passed by the District Superintendent of Education, Patna was affirmed. Being aggrieved by the appellate order as also the original order of dismissal, the petitioner filed a writ petition before this Court, vide CWJC No.903 of 2006. By order dated 8th January, 2008 passed in CWJC No.903 of 2006, the impugned orders passed by the District Superintendent of Education, Patna and the Divisional Commissioner, Patna, were quashed. However, the respondent-authorities were directed to hold fresh enquiry by giving adequate opportunity to the petitioner. Since by that date, the petitioner had crossed the age of superannuation, no direction was given for reinstatement of his service but payment of salary and other consequential benefits to the petitioner were made subject to final order in the departmental proceeding. It was also directed that if charges are not proved, the petitioner will be entitled for his pension and other consequential



benefits. Thereafter, the petitioner filed a review petition, vide Civil Review No.49 of 2008 for reviewing the aforesaid order dated 8.1.2008 passed in CWJC No.903 of 2006. The review of the order passed in the writ petition was sought for on the ground that since payment of salary and other consequential benefits were ordered to be made subject to final order passed in the departmental proceeding, the pensionary benefits were not being paid to the petitioner even though dismissal order had been quashed. The review application of the petitioner was disposed of by this Court observing that if the charges are not proved, the petitioner will be entitled for his pension and other pensionary benefits. It was also observed that in case the departmental proceeding is not concluded within three months inspite of the petitioner's full co-operation, he may claim his pension and other pensionary benefits.

3. Pursuant to the order passed in the aforesaid writ petition and the review application, the respondents proceeded with the disciplinary enquiry conducted against the petitioner for defalcation of government money. On completion of enquiry, the enquiry officer submitted his report that the charges made against the petitioner could not be proved. On receipt of the enquiry report, in view of the fact that in Civil Review No.49 of 2008 this Court had directed to conclude the disciplinary proceeding within three months, the disciplinary authority

closed the proceeding of the case and directed for payment of arrears of salary and pensionary benefits to the petitioner, vide memo no.1047 dated 17th February, 2010 as contained in annexure-1 to the present writ petition. Operative part of the order passed by the disciplinary authority is as under:

“अतएव विधिक विवशतावश जाँच प्रतिवेदन के आधार पर श्री शर्मा के विरुद्ध चल रहे विभागीय कार्यवाही को समाप्त करते हुए बकाये वेतनादि एवं पेंशनादि का भुगतान का आदेश दिया जाता है।”

4. While disciplinary proceeding was still continuing against the petitioner, a contempt petition was filed by the petitioner before this Court, vide MJC No.3645 of 2009. The said contempt petition was disposed of, vide order dated 23rd February, 2010. The order reads as under:

“Show cause has been filed on behalf of District Superintendent of Education, Patna, stating that as per the direction of this Court the departmental proceeding against the petitioner has been concluded within the scheduled time. During the pendency of the departmental proceeding some of the amounts of Group Insurance, unutilized earn leave, difference of salary for the period from 01.01.1971 to 31.03.1973 and the GPF have already been made to the petitioner. So far the pension and arrears of salary are concerned, the petitioner will submit his pension papers and details of arrears of salary that will be paid.

Interlocutory application has been filed by the petitioner, where it is stated that on 14.10.2009 the pension papers have been submitted by the petitioner. So far other dues are concerned, they have been admitted to be paid.

I find that the direction of this Court has fully complied. Accordingly, the proceeding is dropped.

The opposite parties will make payment of

entire arrears and will fix his pension and paid his arrears of pension as early as possible.”

5. It is indeed not in dispute that the claim of the petitioner was processed at different levels and all the admitted dues have already been paid to him.

6. Thus, the claim of the petitioner is confined only to the payment of interest and non-payment of G.P.F. for the period noted above.

7. Learned counsel for the petitioner has submitted that once the petitioner has been exonerated from the charges leveled against him, payments which have been made to him by the State would not be sufficient to compensate the mental agony the petitioner was compelled to suffer. He has submitted that since the State denied the legal dues of the petitioner for long, it must pay interest on the delayed payment of retiral dues.

8. Per contra, learned counsel for the respondents has stated that all admissible dues of the petitioner in accordance with law has been made to him pursuant to the direction made by this Court in earlier proceeding under a compelling circumstance as would reflect from the order passed by the disciplinary authority. It is also submitted that there is no deliberate delay on the part of the respondents in making payment of the amount to the petitioner. The

delay occurred on account of the fact that the petitioner was facing disciplinary proceeding for serious charges of defalcation of government money. It has also been contended that the G.P.F. amount has already been paid and nothing remains to be paid to the petitioner.

9. I have heard respective parties and perused the record.

10. In my opinion, the delay caused in paying the amount is properly explained by the State. Admittedly, in a disciplinary proceeding for defalcation of government money, the petitioner was dismissed from service. His appeal was also dismissed. On technicalities, though the orders passed by the enquiry officer and the disciplinary authority were set aside, the charges were not quashed by this Court in C.W.J.C. No.903 of 2006. In civil review application filed by the petitioner, this Court directed to conclude the proceeding within three months. In view of a favourable enquiry report, the disciplinary authority closed the ongoing disciplinary proceeding due to the deadline of three months time fixed by this Court and directed for payment of all admissible dues to the petitioner. Under such circumstances, I am of the opinion that the delay caused in payment of amount to the petitioner was neither arbitrary nor tainted nor mala fide.

11. Hence, I am not inclined to direct the State to pay any

interest for the delay in payment. Accordingly, the said prayer of the petitioner is dismissed.

12. The claim of the petitioner regarding non-payment of certain deductions under the head of G.P.F. has been contested by the State. It is stated that all the deductions made under the head of G.P.F. have already been paid to the petitioner with interest and nothing remains due to be paid to him by the State. In view of the above stand of the State, the petitioner is directed to file a representation before the District Programme Officer, Patna in respect of alleged non-payment of G.P.F. dues. In case, such a representation along with a copy of the order is filed before him within six weeks from today, he is directed to consider the same and dispose it of within three months thereafter by a reasoned order.

13. With the aforesaid observation and direction, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	-----
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