IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.752 of 2013

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Krishna Mohan Singh, Son of Late Sarzoo Singh, Resident of Village Nagma, P.O. Bahpura, P.S. Maner, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Registrar Co-Operative Societies, Govt. Of Bihar, Patna
3. The Joint Registrar, Co-Operative Societies, Govt. Of Bihar, Patna
4. The District Co-Operative Officer, Rohtas At Sasaram
5. The Assistant Registrar Hilsa, District Nalanda
6. The Assistant Registrar Bhojpur At Arrah, District Bhojpur
7. The Assistant Registrar Bhojpur At Arrah, District Bhojpur
8. The Provident Fund Officer Rohtas At Sasaram
9. The Treasury Officer, Patna District Patna
10. The Accountant General Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Subhash Singh, Advocate

For the State : Mr. Subhash Prasad Singh, GA 3

Mr. Dilip Kumar, AC to GA 3

Fpr the Accountant General :Dr. Anand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 20-08-2016

The challenge in the present writ petition is to an order dated 28th July, 2010, whereby claim of the petitioner for salary from April, 1997 till 07.06.2001 was found to be untenable on account of absence from duty. The claim of the petitioner for the benefit of Assured Career Progression Scheme (ACP Scheme) was also not found to be tenable for the reason that the petitioner has not qualified in the Hindi Noting & Drafting Examination.

The petitioner has earlier filed a writ application bearing

CWJC No. 686 of 2009 decided on 01.02.2010. The order passed reads as under:-

> "Heard learned counsels for the petitioner, the State and the Accountant General.
>
> It is submitted on behalf of the petitioner that during the pendency of the writ application the retiral dues have been paid save and except that he has not been paid the part of the provident fund dues for the period 1976-77, 1978-79 and 1996-97 and till the date of retirement. It is further submitted that these benefits of the time bound promotions granted to him in the year 1987 have not been given which is adversely affecting his claim of retiral dues. It is also submitted that the salary for some period has not been paid to the petitioner while working as a Co-operative Extension officer at Dehri-on-Sone, Rohtas.
>
> Learned counsel for the State submits that as regards the payment of pension and the gratuity the sanction has already been sent to the Accountant General.
>
> Learned counsel appearing for the Accountant General submits that if the authorization for payment of pension and gratuity has not been issued till date the same shall be issued without delay.
>
> In the above circumstances, learned counsel for the petitioner submits that for expeditious disposal of his claims, petitioner proposes to file a representation before the respondent no. 2.
>
> In such view of the matter, in case such representation giving specific claim is filed by the petitioner within a period of six weeks along with the certified copy of the present order as also the copy of the relevant documents in support of the claim, the above respondent shall consider each of the claims raised by the petitioner in his representation in accordance with law expeditiously, preferably within a period of four months on receipt of such representation so that the grievances of the petitioner could be settled without delay and admitted dues along with statutory interest could also be paid to the petitioner. The authority while considering the matter shall also consider with regard to payment provided relevant details in support of such claim are furnished by the petitioner.
>
> The writ application stands disposed of with the above observations/directions."

It is in pursuance of the above said order, the petitioner submitted a representation, which was decided on 28.7.2010, wherein claim of the petitioner is for pay and allowances from April 1997 to 7.6.2001.

There is reference to an order dated 8.4.2009 in the order passed as mentioned above. Learned counsel for the petitioner has produced the said order passed by respondent no. 2 on 8th April, 2009 deducting pension to the extent of 25% and also finding that the petitioner was absent from 7th June, 2001 till 31st January 2004, and that the petitioner will not be paid any salary and allowances for the period of absence.

I find that the entire claim of the petitioner is untenable in the light of the order passed by respondent no. 2 on 8th April, 2009, wherein not only the pension was ordered to be deducted but it was also decided that for the period from 07.06.2001 till 31.01.2004 the petitioner shall not be paid any pay and allowances. The order dated 8th April, 2009 was not challenged in the earlier writ petition being CWJC No. 686 of 2009 and has not been challenged even in the present writ petition.

In the present writ petition, the claim of the petitioner is for interest on account of delayed payment of General Provident Fund as also to grant of the first and second time bound promotions in 1981 and 1989. In the counter affidavit, it has been stated that the entire dues standing to the credit of the petitioner in General Provident

Fund stands payable.

The order dated 28th July, 2010 deals with the period prior to 07.06.2001. The claim of the petitioner has been declined. The payment of pay and allowances for period, he abstained from duty cannot be said to be illegal. The claim of the petitioner for salary and allowances for the period 1997 to 2001 is not tenable in a writ petition filed by the petitioner in the year 2013, i.e., after more than 12 years of the relevant period.

The other claim of the petitioner is for the first and second time bound promotions which according to the petitioner accrued in the year 1981 and 1989. The claim of such time bound promotions suffers from delay and laches part from the fact that the petitioner has not qualified Hindi Noting and Drafting examination, which is condition for promotion and consequently for the grant of Time Bound Promotion as well.

In that view of the matter, the writ petition is dismissed.

(Hemant Gupta, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.