

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6912 of 2015

Santosh Kumar, Son of Late Ram Chandra Prasad, Resident of
Mohalla- Marufganj, P.S.- Malsalami, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Deputy Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Secretary, Minor Irrigation Department, Govt. of Bihar, Patna.
5. The Deputy Secretary, Minor Irrigation Govt. of Bihar, Patna.
6. The Accountant General, Bihar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Sharma, Adv.
For the State : Mr. Mujtabul Haque, G.P. 12.
: Mr. Mritunjay Kumar, AC to GP 12.
For the Acct. General : Mr. Kameshwar Prasad Gupta, SC

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-08-2016

Heard learned counsel for the petitioner and the State.

The writ petitioner seeks direction for payment of entire
retireal benefits which have not been paid despite having retired
on 31.01.2013 from the post of Executive Engineer, Tube Well,
Division, Sitamarhi under Minor Irrigation Department, Govt. of
Bihar. It is urged that neither any pension/provisional pension has
been fixed nor has other retiral benefits have been given to him.

Counter-affidavit has been filed on behalf of the

Respondent Nos. 2 & 3 and a supplementary counter-affidavit has also been filed on behalf of the Respondent Nos. 1 to 3.

Learned counsel for the State submits that 90% of pension was already fixed in the year 2015 now 100% pension has been fixed in the year 2016 and all the retiral benefits have been sanctioned.

Learned counsel for the petitioner submits that since he has retired in the year 2013 and before retirement he had already submitted his pension papers, therefore, non-payment of pension amount for about two and half years would bear interest also in view of the Circular of the State Government Memo No. PC-2-1-46/79/3155 dated 07.11.1981.

Per contra, learned counsel for the State submits that since the departmental proceeding was initiated against the petitioner even before his retirement, there has been some delay in payment but 90% pension has been fixed in the year 2015 itself.

In my view, such submission can be noted only for the purpose of rejection inasmuch as it has been held by the Apex Court in **State of Jharkhand & Ors. Vs. Jitendra Kumar Srivastava & Anr. [2013(3) PLJR SC 458]** that pension cannot be denied merely on the basis of pendency of any judicial or a



departmental proceeding.

Now, the stand of the State is that even the disciplinary proceeding has already been closed, therefore, in my view, there was no occasion for the State not to fix even 90% pension for two years and, thereafter, fixing of pension and other retirement benefits. Therefore, the petitioner, in view of the decision of the Apex Court, would be entitled for payment of admissible interest upon the same and in view of the aforesaid circular that should also be calculated and paid to the petitioner within a period of two months.

This writ application stands allowed to the extent indicated above.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
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