

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 6969 of 2016**

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Arjun Kumar, Son of Shri Ram Chandra Prasad, Resident of House No. 159, 3<sup>rd</sup> Cross, 20<sup>th</sup> Main, BTM 1<sup>st</sup> Stage, Bangalore-560068.

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Environment & Forest, Government of Bihar, Patna.
3. The Director, Provident Fund Directorate, Department of Finance, Government of Bihar, Patna.
4. The Accountant General, Bihar.

.... .... Respondent/s

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**Appearance :**

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|----------------------------|---|--------------------------------------|
| For the Petitioner/s       | : | Mr. Brisketu Sharan Pandey, Advocate |
| For the State              | : | G.P. 16                              |
| For the Accountant General | : | Mr. Ram Yash Singh, Advocate         |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 13-11-2017**

Heard learned counsel for the petitioner; State and  
the Accountant General.

2. The petitioner has moved this Court for the  
following reliefs:

*“i) For the direction to the respondents authorities to pay suitable interest on the post retiral benefits including the provident fund, gratuity and other benefits including leave encashment for the period 2003-04 until 2012-13 during which the petitioner was constrained to litigate owing to erroneous interpretation of Rule 16 of the All India Services (Death-cum-Retirement Benefits) Rules 1958 by the respondents.*

*ii) For declaration that the respondents have wrongly withheld the retiral dues of the petitioner from 2003*



*until 2010 when the pension was finally fixed by the respondents.*

*iii) For direction upon the respondents that the petitioner be paid suitable statutory interest as he was entitled of timely payment/disbursement of all post retiral benefit and was only paid in the year 2010 onwards much later after the law having being settled in that regard.*

*iv) The Hon'ble Court may any other order/orders which deem fit in the facts and circumstances of the case and within the ends of equity, justice and good conscience".*

3. In essence, the prayer is for payment of interest on the delayed retiral benefits paid to the petitioner.

4. Learned counsel for the petitioner submitted that the petitioner had opted for voluntary retirement from the Indian Forest Service in the year 2003 but the same was wrongly rejected by the State Government in January, 2004 against which he moved before the Central Administrative Tribunal, Patna Bench in O.A. No. 183 of 2007 and the same was dismissed by order dated 06.05.2008. Being aggrieved, he moved in C.W.J.C. No. 9909 of 2008 and a Division Bench of this Court by order dated 23.12.2008 has held that resignation of the petitioner had to be accepted and has further directed that the retiral benefits to which he was entitled be settled and paid to him at an early date. Learned counsel submitted that thereafter by order dated 08.09.2009, the State Government had



accepted the request for voluntary retirement of the petitioner with effect from 01.06.2003, but the payment having been made in the year 2009 onwards, he is entitled to delay for the period the amount remained unpaid. In support of the contention, learned counsel has relied upon the decision of the Hon'ble Supreme Court in the case of **D. D. Tewari v. Uttar Haryana Bijli Vitran Nigam Ltd.** reported as **(2014) 8 SCC 894** as well as of this Court in the case of **Shyam Sundar Prasad vs. State of Bihar** reported as **2017 (1) PLJR 960** and also **Chandrabilas Sharma vs. State of Bihar** reported as **2017 (2) PLJR 1**.

5. Having heard learned counsel for the parties, the Court is not inclined to interfere in the matter. The primary reason for not doing so is the fact that in the earlier round of litigation before the Central Administrative Tribunal on the point of rejection of his request for voluntary retirement, the case was dismissed and a Division Bench of this Court had reversed the same by order dated 23.12.2008. Thus, the issue of the petitioner being allowed to voluntary retire was still sub-judice before the Court and has finally fructified in favour of the petitioner by order dated 23.12.2008. In fact, in the first round the issue was decided against the petitioner by the Central Administrative Tribunal. Thus, no fault or laches can be attributed to the respondents for not having given the post retiral dues



of the petitioner, as, at least till 23.12.2008, the issue whether the petitioner would be considered to have voluntarily retired or not was still unclear. This is one part of the matter. The other equally important aspect is that in the order of the Division Bench dated 23.12.2008, it has been held that the petitioner is entitled to retirement benefits in terms of the Rules and that the same be settled and paid to him at an early date. Thus, when the Division Bench itself has directed for payment of retirement benefits to the petitioner at an early date, the issue of payment of interest was required to be raised before that very Bench at the relevant time, and the same not having been done cannot be considered by this Court, more so, for the reason that though the Division Bench had directed for settlement and payment of retirement benefits of the petitioner, but had only observed that the same be done at an early date. Pursuant thereto, the resignation of the petitioner being accepted by a formal order dated 08.09.2009 and payment of his dues starting thereafter, cannot be said to be of a nature which would entail payment of interest. As far as the judgments relied upon by learned counsel for the petitioner with regard to payment of interest on the delay, the Court finds that the foundational facts in those cases were quite different to that in the present case. In the said cases, the persons had superannuated and as a matter of right, without there being any fault or laches of those



petitioners, payment not having been made for a long period, the Court had directed for payment of interest. In the present case, till December, 2008 the acceptance of the resignation tendered by the petitioner voluntary retired was still hanging fire. Thus, there is no similarity between in the facts of those cases to the facts of the present case.

6. In view thereof, the writ petition stands dismissed.

7. It goes without saying that the petitioner may file representation before the authority concerned for consideration, but the decision on the same shall not be amenable to judicial review in light of the discussions made in this order, since, at the cost of repetition, the matter relating to payment of retiral benefits in terms of the earlier Division Bench order of this Court dated 23.12.2008, which has not given any directions for payment of interest and has rather directed that retiral benefits be settled and paid at an early date, cannot be gone behind, interfered with or modified in any manner.

**(Ahsanuddin Amanullah, J.)**

Anand Kr.

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