

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2969 of 2017

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Rajendra Prasad Mandal

.... Petitioner/s

Versus

Bihar State Agriculture Marketing Board & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy

For the Respondent/s : Mr. Anant Pd. Singh -Sc15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

2 21-07-2017

Heard learned counsel for the petitioner and the State.

The petitioner superannuated on 30.11.2015. He has filed the instant writ petition for direction to the respondent to pay contributory provident fund with statutory interest and difference of arrears of salary on account of implementation of 6th Pay Revision.

On behalf of the respondent no.3 , a counter affidavit has been filed which shows admission of the averment made in the writ petition from paragraphs 4 to 16 of the counter affidavit. It appears that deponent has accepted contention of the petitioner. In para-4 to 16 of the counter affidavit the reason for non-payment appears to be not holding audit. Although the petitioner retired on 30.11.2015. In para-17, the deponent of the counter affidavit has mentioned about letter dated 17.6.2016 to submit that certain document has not been found in physical verification of which



petitioner was in-charge of market sulk. In para-17 of the writ petition there has been specific averment made by the petitioner that he retired on 30.11.2015 and during the period of service neither any disciplinary proceeding was initiated nor any criminal case lodged against the petitioner. Therefore, payment of difference of arrears of salary on account of implementation of 6th Pay Revision with effect from 01.01.2006 cannot be legally withheld by the respondents. In reply thereto, in para-18 of the counter affidavit, the deponent has stated that the averment made in para-17 of the writ petition requires no comment. Law with regard to non transfer is well settled, if specific pleadings in the writ petition, has not been controverted, the court has to proceed that the facts are admitted.

Reference in this connection may be made to the Apex Court judgment in the case of **Naseem Bano State of U.P. Vs. AIR 1993 SC 2592.**

Considering the law laid down by the Apex Court, the averment of the writ petitioner in para-17 has not been controverted by the respondent, therefore the court has to accept the contention raised in para-17 of the writ petition.

Since the petitioner has retired on 30.11.2015 and after retirement he is only entitled to terminal benefit in the nature



of contributory provident fund or difference of arrears of salary on account of 6th Pay Revision but the dilly dally tactic is being adopted by the respondent in finalizing the claim of the petitioner as appears from the counter affidavit.

Accordingly, the writ petition is disposed of with direction to respondent to take final decision with regard to claim of the petitioner for grant of contributory provident fund with statutory interest and difference of pay on account of recommendation of 6th pay revision with effect from 01.01.2006 with monetary benefit with effect from 01.04.2017. The entire exercise must be completed within a period of two months from the date of production of the order and all monetary benefits must be paid to the petitioner within a further period of two months.

With the aforesaid observation, the application stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

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