

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1529 of 2017

IN

Civil Writ Jurisdiction Case No. 12313 of 2015

=====

Ayodhya Prasad, S/o Late Budhya Mahto R/o Vill.- Sasour, P.O.- Chero, P.S.- Sarmera, District- Nalanda At Present Mini L.I.C. Colony, P.O.- Chitragupta Nagar, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar through the Commissioner, Food and Civil Supplies Department, Govt. of Bihar, Patna.
2. Commissioner, Food and Civil Supplies Department, Govt. of Bihar, Patna.
3. District Magistrate, Gopalganj.
4. District Supply Officer, Gopalganj.
5. Sub Divisional Officer, Hathua, District- Gopalganj.
6. Block Development Officer, Vijaypur Block, District- Gopalganj.
7. Accountant General, Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ram Janam Prasad, Advocate

For the A.G., Bihar : Mr. Satyendra Kumar Jha, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 25-06-2018

Challenge in the present Letters Patent Appeal is to the order dated 22.09.2017 passed in Civil Writ Jurisdiction Case No. 12313 of 2015. By the impugned order, the learned Writ Court has refused to issue directions to the respondents to pay to the petitioner interest for the alleged delay in payment of his gratuity, pension, leave salary and arrears of salary of time bound promotions. The petitioner claimed that he received his retiral dues after lapse of about 18 years despite submission of all relevant papers before the date of his retirement on 31.01.1996.

On perusal of the Writ Application, we find that the petitioner had



earlier moved this Court in C.W.J.C. No. 4355 of 2010. At the time of hearing of the said Writ Application on 10.05.2010 it was submitted on behalf of the petitioner that **“Immediately before the superannuation of the petitioner, his wife expired, as a result of which the petitioner went in deep depression and was in financial crises due to non payment of his pensionary benefits and he could not take further steps to receive the pensionary benefits.”**

In the said Writ Application the stand of the State was that the necessary communication had been made to the petitioner for supplying the requisite information. The petitioner proposed before the Writ Court to file afresh requisite application for receiving the pensionary benefits and on such proposal having been made, the learned Writ Court vide its order contained in Annexure 7 to the Writ Application directed the respondents to consider the requisite papers along with representation on filing of the same so that the grievance of the petitioner may be settled without further delay and the admitted dues may also be paid. The order passed by the learned Writ Court at the first instance does not talk of payment of any interest etc.

From the averments made in the Writ Application at this stage, we find that the petitioner had moved this Court in contempt jurisdiction vide M.J.C. No. 2046 of 2011 and in obedience to the order dated 13.08.2011 passed in the contempt matter the petitioner received G.P.F. amount with interest, however petitioner is not satisfied with the said interest and claims that he has not been paid any interest on other pensionary benefits.

Learned counsel for the appellant submits that the delay had taken place due to inaction on part of the State respondent, and therefore, petitioner would be entitled for the interest amount.

Having heard learned counsel for the parties and on perusal of the



records, we find that in the peculiar facts and circumstances of the case where at the very first instance the petitioner has accepted his contributory negligence in not taking steps to receive the pensionary benefits and the fact that the learned Writ Court at the first instance was not persuaded to direct respondents to pay interest on the retiral dues as also that the petitioner himself accepts payment of some interest in the G.P.F. amount, we are not inclined to interfere with the order of the learned Writ Court impugned in the present appeal. Article 226 of the Constitution of India provides for grant of discretionary reliefs. However in the facts and circumstances of the present case we are satisfied that the petitioner would not be entitled for interest for the period he is looking for.

The Letters Patent Appeal has no merit. It is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-
Ved/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.06.2018
Transmission Date	N/A

