

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4873 of 2020

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Uday Shankar Prasad S/o Late Chaturbhuj Sahay, Resident of A- 304,
Millennium Home Appartment, Sheikhpura, P.S. Sheikhpura, Patna- 800014.

... .. Petitioner/s

Versus

1. The State of Bihar through the Finance Commissioner Govt. of Bihar, Patna.
2. The Secretary, Bihar Vidhan Parishad , Patna.
3. The Finance Commissioner, Govt. of Bihar, Patna.
4. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nityanand Mishra
For the Respondent/s : Mr.Raghwendra Kumar (Sc22)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 22-09-2020 On the request of the respondents, the case was

adjourned for 7.9.2020, unfortunately no counter affidavit has

been filed in the present case.

2. Learned counsel for the petitioner submits that the
petitioner superannuated on 31.7.2011 and he was paid pension
in the month of July, 2012 The difference of pension, gratuity
and leave encashment was paid to the petitioner in December,
2016 and as such the petitioner is entitled to 5 per cent interest.

3. So far as payment of pension is concerned, the
Court finds that there is no inordinate delay as the petitioner
retired in July 2011 and payment was made in July, 2012 and
therefore, the claim as to payment of interest is baseless and not



justified.

4. So far as the difference of amount is concerned, his claim on difference, payment was made only after adjudication by this Court in C.W.J.C. No. 19677 of 2012 vide judgment dated 20.8.2016. After the date of 20.8.2016 the dispute as to entitlement was adjudicated, therefore, up to 20.8.2016 the claim for difference of payment was pending before the High Court. The Court in the aforesaid facts of the case is of the considered view that the aforesaid period cannot be taken as belated delay on the part of the respondents in making the payment of difference and consequently entitled the petitioner to claim interest if the payment was not made within three months from 26.8.2016. If the payment was made to the petitioner before 20.11.2016 the petitioner shall not be entitled to payment of any interest. In the event, the petitioner has been paid after 20.11.2016 then the petitioner should be justified in claiming interest.

5. Since the writ petition itself does not contain any accurate facts and figures, the Court is not in a position to issue any positive direction. However, having regard to the peculiar facts and circumstances of the case, the writ petition is disposed of with a direction to the respondent no.2 to take appropriate



decision within a period of 15 days from the date of receipt/production of a copy of this order.

6. The entitlement of the interest from the date of filing of C.W.J.C. No. 19677 of 2012 is justified if the difference of post retiral dues have not been paid in terms of the order of this Court in C.W.J.C. No. 19677 of 2012 dated 20.8.2016 within a period of three months from 20.8.2016.

7. It is made clear that the entitlement of the interest is only permissible if the payment has not been made to the petitioner within three months in terms of the order dated 20.8.2016 are not otherwise.

8. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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