

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11042 of 2019

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Bipin Bihari Mandal, Son of Late Gopal Chandra Mandal, resident of flat No. 18, Vishal Kunja Apartment, Kazipur, Road No. 4, P.S.- Kadamkuan, District-Patna, Pincode- 800004. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. A.N. Sinha Institute of Social Studies, Patna through its Registrar.
3. Director, A.N. Sinha Institute of Social Studies, Patna.
4. Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhinav Srivastava, Advocate
For the State	:	Mr.Kameshwar Kumar (GP-17)
For the Institute	:	Mr.Piyus Lall, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 17-06-2020 Heard Mr. Abhinav Srivastava, learned counsel appearing on behalf of the petitioner, Mr. Piyus Lall, learned counsel appearing on behalf of the A.N.Sinha Institute of Social Studies and learned counsel appearing on behalf of the State.

The petitioner retired on attaining the age of superannuation on 30.06.2002.

The petitioner claims that he is entitled to payment of gratuity and leave encashment amounting to Rs. 3,19,292/-. (Rs. 2,50,000/- as gratuity and Rs. 69,000/- as leave encashment.)

A sum of Rs. 3,19,292/- has been paid without interest to the petitioner during the pendency of the writ petition towards gratuity and leave encashment.



Learned counsel appearing on behalf of the petitioner submits that the only issue requires adjudication in the present case is entitlement of interest for delayed payment of gratuity. He referred to the provisions of Sections 7(3) and (3A) of the Payment of Gratuity Act, 1972 (for short 'the Act') to contend that in terms of the provisions of the Act, the petitioner is entitled to payment of interest on delayed payment of gratuity amount. He submits that there are judgments to the effect that if there is delay in payment of gratuity amount, the petitioner is entitled to higher rate of interest.

Mr. Piyus Lall, learned counsel appearing for the A.N.Sinha Institute makes two fold submissions; firstly, as to the maintainability of the writ petition after 17 years of superannuation.

This submission of Mr. Piyus Lall is totally misconceived. If the gratuity amount was paid without interest during the pendency of the writ petition and once the respondents have paid the gratuity amount, the question of maintainability of the writ petition at the instance of A.N.Sinha Institute on the ground of delay and laches, does not arise.

The second submission of Mr. Piyus Lal is that a Bench of this Court had disposed of his writ petition with liberty



to the petitioner to represent the authorities.

The Court failed to understand the substance in such submission because the direction to approach the authorities is not adjudication of right and interest and such decision has no binding effect and as such the second submission of Mr. Piyus Lall lacks substance. It is accordingly, rejected.

Considering the fact that the petitioner has been paid gratuity after 17 long years, the petitioner is entitled to payment of interest for more than one reason. Firstly that the purchase value of the money decreased phenomenally, secondly, the amount could have earned interest, and thirdly in the absence of any other guidelines the statutory guidelines with regard to payment of interest on delayed payment of gratuity is applicable. Considering the totality of the fact situation that there is no definite guideline, in order to balance the equity, instead of awarding higher rate of interest, the Court directs the respondents A.N.Sinha Institute to pay interest in terms of the provisions of Sections 7(3) and (3A) of the Payment of Gratuity Act, 1972 on delayed payment of gratuity of Rs. 2,50,000/-. The payment of interest must be made to the petitioner within a maximum period of three months from the date of receipt/production of a copy of this order.



With the aforesaid, the writ petition stands disposed
of.

(Anil Kumar Upadhyay, J)

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