

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2450 of 2023

=====

Chandra Bhan Upadhyay Son of Late Ram Brichha Upadhyay Ex,-Senior
Store Issuer Office of the Deputy Chief Engineer (Con)-IV, East Central
Railway, Samastipur, Resident of Village- Naduwa, Post- Barhaj, P.S.- Barhaj,
District- Deoria- 274601 (UP).

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
3. The Financial Advisor and Chief Accounts Officer, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
4. The Chief Administrative Officer (Con.), East Central Railway, Mahendrughat, Patna- 800004 (Bihar).
5. The Financial Advisor and Chief Accounts Officer (Con), East Central Railway, Mahendrughat, Patna- 800004 (Bihar).
6. The Deputy Chief Personnel Officer (Con), East Central Railway, Mahendrughat, Patna- 800004 (Bihar).
7. The Divisional Railway Manager, East-Central Railway, Samastipur- 848101 (Bihar).
8. The Senior Divisional Personnel Officer, East-Central Railway, Samastipur- 848101 (Bihar).
9. The Deputy Chief Engineer (Con)-IV, East Central Railway, Samastipur- 848101 (Bihar).
10. The Senior Divisional Financial Manager, East Central Railway, Samastipur- 848101 (Bihar).

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Munna Pd Dixit (M.P. Dixit)
Mr. S.K. Dixit, Adv.
Mr. Sanjay Kumar Chaubey, Adv.
Ms. Swastika, Adv.
For the Respondent/s : Dr. K.N. Singh, ASG
For Union of India : Mr. Praveen Kumar Sinha, Advocate
Ms. Shail Kumari, CGC

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-07-2023

On 13.04.2023, the following order was passed:-

“Core issue involved in this case is that the petitioner is entitled to interest on all retiral dues or not? From perusal of the records, it is evident that the petitioner, as on the date of his retirement on 30.06.2018, was holding post of Senior Store Issuer. Therefore, last pay drawn in the retired post is required for the purpose of retiral benefits including fixation of pension. On the other hand respondents have implemented the orders of the CAT accepting the fact that the petitioner has attained age of superannuation and retired from service while holding post of Senior Store Issuer. In this backdrop, due to error committed by the Railway Authorities, the petitioner shall not be penalized in not setting



petitioner's retiral dues within the reasonable period of time from the date of his retirement on 30.06.2018. On the other hand, they are proceeded to fix the petitioner's pension with reference to Group-D Post. Such arrangement was made on the presumption that the petitioner was holding ad hoc promotion against Group-C post on 01.07.1990 and further he has earned promotion to the post of Senior Store Issuer on 20th February, 1996. If the petitioner is not entitled to hold the post of Group-C and Senior Store Issuer as on 01.07.1990 and 20th February, 1996 respectively, in such an event they could have resorted to action in reverting him. As on 30.06.2018 there was no action of reverting the petitioner to hold the post of Group-D so as to settle his retiral dues against the Group-D Post. Prima facie the petitioner has made out a case insofar as granting interest.

Learned counsel for the respondents seeks time, re-list this matter on 27.04.2023 as a last chance."

2. The Respondents-Railways could not appreciate this Court as to how the petitioner is not entitled to interest on belated settlement of arrears of amount with reference to the post held by the petitioner i.e., Group C post on 01.07.1990 read with promotional post of Senior Store Issuer on 20th February, 1996 and the fact that on 30th June, 2018, he has



attained the age of superannuation and retired from service while discharging the post of Senior Store Issuer. In this regard respondents could not apprise this Court any statutory provision that the petitioner is not entitled to interest on belated settlement of his retiral dues.

3. Apex Court in the Case of **Vijay L. Malhotra Vs. State of U.P.** reported in **2001 (9) SCC 687** held as under:-

“1. Special leave granted, limited to the question of granting of interest.

2. The appellant retired from service on 31-8-1997. From the response filed by the respondent, it is clear that most of the payments of the retiral benefits to her were made a long after she retired on 31-8-1997. The details of the payments so made are as under:

Sl. No.	Particulars	Amount paid	Date
(I)	GPF 90%	Rs 1,80,899.00	27-11-1997
(ii)	GPF 10%	Rs 20,751.00	25-4-1998
(iii)	GIS	Rs 13,379.00	27-2-1998
(iv)	Encashment of leave	Rs 41,358.00	27-9-1998
(v)	Arrears of pay	Rs 15,495.00	27-9-1998
(vi)	Gratuity	Rs 1,09,753.00	5-12-1998
(vii)	Commuted pension	Rs 20,484.00	5-12-1998
(viii)	Detained amount	Rs 45,000.00	5-11-1990



3. In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement.

4. In this case, there is absolutely no reason or justification for not making the payments for months together. We, therefore, direct the respondent to pay to the appellant within 12 weeks from today simple interest at the rate of 18 per cent with effect from the date of her retirement, i.e., 31-8-1997 till the date of payments.

5. The appeal is allowed to the above extent.”

4. In the light of afore-mentioned decision, the petitioner is entitled to interest on belated settlement of retiral dues. The same shall be paid to the petitioner by calculating interest at the rate of 8% per annum, in the light of RBI policy decision. Such calculation shall be made and disbursed in favour of the petitioner within a period of three months from the date of receipt of this order, failing which the petitioner is entitled to litigation cost and it is quantified at Rs. 50,000/-.

5. Accordingly the order of the CAT dated 29.09.2021 passed in OA/050/0042/2019 stand modified to the above extent in so far as granting relief on payment of interest



on belated settlement.

6. Accordingly, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/ashish
kr/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.07.2023
Transmission Date	

