

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20378 of 2018

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Munakiya Devi Wife of Late Raj Nandan Paswan, Resident of Village-Dihuri,
Police Station-Halasangaj, District-Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Dam Suraksha Prakost, Water Resources Department, Water Resources Bhawan, Block B, Ro
3. The Accountant General A and E, Bihar Patna.
4. The Treasury Officer, Secretariat Treasury, Patna Nirman Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar
For the Respondent/s : Mr.Vikash Kumar -Sc11

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-03-2023

Heard Mr. Umesh Kumar, learned counsel appearing on behalf of the petitioner; Dr. Anand Kumar, learned counsel appearing on behalf of the Accountant General and Mr. Akash Chaturvedi, learned AC to learned SC-11 for the State.

2. The petitioner has filed the present writ petition for following relief(s):-

“ 1. That this writ application is being preferred on behalf of the petitioner above named for invoking the writ jurisdiction of this Hon’ble Court for seeking the following reliefs:-

i) For issuance of writ in the nature of mandamus or any other appropriate writ for commanding the respondents to pay the arrear of the pension of the amount Rs. 10,07033.00 along with



statutory and penal interest for the period from 01.03.2009 to Jun, 2017 to the petitioner, who is the wife of the deceased employee Late Raj Nandan Paswan.

ii) For issuance of writ in nature of mandamus or any other appropriate writ for commanding the respondents particularly the respondent No. 2 to grant sanction of the aforesaid pension amount along with statutory and penal interest in favour of the petitioner.

iii) For issuance of any other appropriate writ or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. The husband of the petitioner namely, Late Raj Nandan Paswan was appointed on the post of Correspondence Clerk on 27.05.1968 and retired on 28.02.2009. After retirement, the husband of the petitioner was paid all the retiral dues but pension and gratuity were paid to him only in the year 2017 though the petitioner had retired on 28.02.2009.

4. The petitioner is aggrieved for non payment of interest on the amount of pension for the delay caused in fixing the pension. The petitioner had requested and demanded to pay her arrears of pension amounting to Rs. 10,07033/- along with statutory interest as well as penal interest for the aforesaid period i.e. 01.03.2009 to June, 2017. The total amount of arrears of pension was paid to the petitioner, however, statutory and penal interest for the aforesaid period was not calculated and



paid to the petitioner. The Accountant General had made communication to the Director, Dam Suraksha Prakost, Water Resources Department, Water Resources Bhawan, Block-B, Room No. 301, 3rd Floor, Patna-2 requesting them to make available the departmental sanction in the light of Bihar Treasury Code- 2011 Rules 239 and 241 (II) and the arrears of calculation chart was received from the treasury vide Letter No. 389 dated 28.07.2017, which has been brought on record by the Accountant General in their counter affidavit. Thereafter, several communications were made and the petitioner was finally paid the arrears in the year 2019 as the said date of payment has not been brought on record.

5. However, learned counsel for the petitioner submitted that payment of arrears has been made to the petitioner. The grievance of the petitioner thus remains for payment of interest on account of delayed payment made to the petitioner as well as on the arrears of pension which was made only in the year 2019.

6. Now, the petitioner has restricted his relief only with respect to payment of interest on the arrears amount which was paid to him in the year 2019.

7. The petitioner has made specific statement that her



husband was seriously ill and no such steps were taken during his lifetime and same be considered sympathetically.

8. Mr. Akash Chaturvedi, learned AC to learned SC-11 for the State submitted that petitioner is not entitled to payment of interest for inaction of the husband of the petitioner or on the part of the petitioner. He further submitted that soon after the request made by the husband of the petitioner on 12.11.2009, No Dues Certificate was issued to the Treasury Officer on 18.12.2009. Thereafter, the respondent again made a communication dated 21.05.2010 requesting the husband of the petitioner to submit necessary information for revising his salary with effect from 01.01.2006 in terms of the sixth revised pay scale. On 30.06.2010, the husband of the petitioner submitted necessary information for revision of salary in the office of the Director, Dam Suraksha Prakost, Water Resources Department, Patna. Thereafter, the pay scale of the petitioner was fixed with effect from 01.01.2006 and a request was made to the Accountant General, Bihar, Patna to sanction the revised pension and gratuity of the husband of the petitioner. The pension and gratuity was revised by the Accountant General, Bihar, Patna way back in the year 2011 on 07.09.2011.

9. Thereafter, it was detected by the office of the



Accountant General, Bihar that the pension of the husband of the petitioner was not taken from 01.03.2009 to 2017 and requested the respondent no. 2 for due sanction of the pension of the husband of the petitioner which comes to Rs. 10,07033/-. Although the revised pension of the husband of the petitioner was sanctioned on 07.09.2011. He further submitted that the respondent no. 2 was conscious of the fact that pension must be paid within time and thereafter a communication vide Letter No. 130 dated 09.03.2018 was made to the Treasury Officer, Nirman Bhawan, Patna and vide letter dated 26.05.2018, the respondent no. 2 sent letter to the Accountant General, Bihar, Patna and requested that if there is dues of pension of Late Raj Nandan Paswan, husband of the petitioner then he has no objection to give sanction to the Accountant General in the light of earlier recommendation by his office. Finally, the sanction letter was issued calculating the arrears of pension in accordance with Rules 239 and 241 (II) of the Bihar Treasury Code- 2011.

10. Having heard the rival submissions of the parties, the arrears of pension was sanctioned by the respondent no. 2 vide Letter No. 29 dated 22.01.2019 to the Accountant General, Bihar, Patna sanctioning the arrears of pension Rs. 10,07033/- and thereafter, the payment was made in the account of the



petitioner. The fact reveals that the statement made by the respondent no. 2 that even after No Dues Certificate was issued on 18.12.2009, no request was made by the petitioner nor he had submitted the necessary information for revising his salary in the sixth revised pay scale with effect from 01.01.2006 and that has delayed the whole process of sanctioning the pension and gratuity, is not sustainable.

11. Contrary, the record reveals that the pension of the husband of the petitioner was fixed on 13.10.2009 without taking into consideration the benefit of the sixth revised pay scale which was effected from 01.01.2006 on which date it had come into force. The pension of the husband of the petitioner was fixed at a later date i.e. 13.10.2009. The right of the writ petitioner's husband to get his retiral dues on the date of attaining superannuation is a valuable right and a legal duty is hence cast upon the concerned authorities to ensure that such right is not defeated; *Satya Ranjan Das v. The State of West Bengal* reported in (2007)3 CLT 531.

12. I am of the opinion that the respondent no. 2 by not taking into consideration the said fact are themselves responsible for delay in sanctioning the pension and gratuity to the husband of the petitioner. The said fact is also revealed from



the counter affidavit filed on behalf of the Accountant General, Bihar, Patna in which it has been stated that the office of the Accountant General detected that the arrears upon pension amounting Rs. 10,07033/- along with statutory and penal interest for the period 01.03.2009 to June 2017 as claimed by the petitioner requires to be paid to the petitioner and for that, request was made to the respondent no. 2 to issue sanction of the said amount on priority basis.

13. The respondent no. 2 have themselves admitted in their counter affidavit that finally, vide Letter No. 29 dated 22.01.2019, the sanction letter was issued to the office of the Accountant General, Bihar, Patna and, thereafter, the petitioner was paid the arrears of pension.

14. Pension and gratuity are welfare provisions aimed at maintaining the life of a retired employee and his/her dependents. This is compensatory in nature. The law on grant of interest on delayed payment of retiral benefit is no longer res integra. The Apex Court in case of *State of Kerala v. M. Padmanabhan Nair* reported in (1985) 1 SCC 429 and *D.D. Tewari v. Uttar Haryana Bijli* reported in (2014) 8 SCC 894 has laid down that when the employer delays the release of Pensionary benefits, it is bound to pay interest on account of the



delay. The principle that the disbursement of pension and other retirement benefits should not be treated as a matter of bounty but are valuable rights and property and any delay in settlement or disbursement thereof must be compensated with the penalty of payment of interest at the current market rate till actual payment to the employee.

15. In aforesaid circumstances, applying the law laid down by the Apex Court, the respondent no. 2 must sanction interest on account of delayed payment as well as the penal interest for the period 01.03.2009 till date of payment made to the petitioner in the year 2019 at the rate of 12 percent per annum, though the petitioner has claimed at the rate of 5 percent per annum.

16. Accordingly, the present writ petition is allowed.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	04.04.2023
Transmission Date	N/A

