

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8433 of 2021

=====

Ratneshwari Devi W/o Late Uma Charan Das resident of Village - Kasmar
Road, Peterbar, P.O. and P.S. - Peterbar, District- Bokaro, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Siwan.
4. The Superintending Engineer, Saran Canal Anchal, Gandak Project, Siwan.
5. The Executive Engineer, Saran Canal Division, Gandak Project, Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate.
For the Respondent/s : Mr. Akash Chaturvedi, AC to SC-11.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 25-04-2023

Heard Mr. Shanti Bhushan Singh, learned counsel
appearing on behalf of the petitioner and Mr. Akash Chaturvedi,
learned AC to SC-11.

2. Learned counsel appearing on behalf of the State
takes this Court to the order dated 03.01.2023 by which this
Court had directed the petitioner to file the pleading of CWJC
No. 18206 of 2013.

3. CWJC No. 18206 of 2013 has already been
disposed of by this Court vide order dated 22.08.2016 allowing
the relief of the petitioner with respect to grant of ACP and
promotion to the post of Assistant Engineer in respect of her



husband. The husband of the petitioner had retired on 31.01.2003 and died on 22.02.2004. Now the petitioner claims that in spite of delayed payment of retiral dues like earned leave, gratuity, arrear of pension based on pay revision and family pension, no interest has been granted to the petitioner, who is the widow of the deceased employee, which has forced the petitioner to file the present writ petition for payment of interest on account of delayed payment of retiral dues.

4. Learned counsel appearing on behalf of the State submits that the deceased employee was himself responsible for the delay. The conduct of the petitioner, who is the wife of the deceased employee, does not entitle her for any relief.

5. This Court considering the relief sought for in the present writ petition and the denial of payment of interest on account of laches of the deceased-employee as alleged by the State in absence of any chronological event in support of the contention made in the counter affidavit, I find that such an approach of the concerned respondent cannot be appreciated. The respondents have not denied that there has not been delay in payment of pre and post retiral benefits of the deceased employee. Benefit of ACP was admittedly granted to the petitioner after superannuation after the ACP scheme was



adopted by the State Government from due date.

6. Considering the fact that the benefit of ACP was given to the petitioner in the year 2019 in spite of the fact that the scheme having been made effective by the State Government from 09.08.1999. The payment was finally made in the year 2019 nearly after two decades. The contention of the respondents that the petitioner was herself responsible for delayed payment is not sustainable. The respondents cannot absolve themselves from making payment of interest on the retiral dues payable to the petitioner for the delayed payment in granting benefit of ACP.

7. Learned counsel appearing on behalf of the petitioner under such circumstances is directed to file a detailed representation before the Executive Engineer, Saran Canal Division, Gandak Project, Siwan who is directed to quantify the interest payable to the petitioner on account of different heads as claimed on account of delay caused in making payment of post retiral dues and the benefit of ACP. Petitioner is claiming interest at the rate of 12.5% per annum and in support of her claim, she has relied on the Judgment of the Apex Court in the 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**.

8. Respondent No.5 must ensure payment of interest within a period of six weeks from the date of filing of the representation.

9. Accordingly present writ petition is disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	02.05.2023
Transmission Date	N.A.

