

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.506 of 2021
In
Civil Writ Jurisdiction Case No.2624 of 2017

1. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Muzaffarpur, Bihar.
3. The Additional Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Under Secretary, Water Resources Department, Government of Bihar, Patna.

... .. Appellants.

Versus

- 1.1. Smt. Sharda Sinha, Wife of Late Surendra Prasad Singh, Resident of Prabhu Kunj, Near Ganga Valley School, Gautam Buddha Colony, Agamkuan, Patna, PIN- 800007.
- 1.2. Uttam Kumar, Son of Late Surendra Prasad Singh, Resident of Prabhu Kunj, Near Ganga Valley School, Gautam Buddha Colony, Agamkuan, Patna, PIN- 800007.
- 1.3. Harishankar, Son of Late Surendra Prasad Singh, Resident of Prabhu Kunj, Near Ganga Valley School, Gautam Buddha Colony, Agamkuan, Patna, PIN- 800007.
- 1.4. Nisha, Daughter of Late Surendra Prasad Singh, Resident of Prabhu Kunj, Near Ganga Valley School, Gautam Buddha Colony, Agamkuan, Patna, PIN- 800007.
- 1.5. Archana, Daughter of Late Surendra Prasad Singh, Resident of House no. 2163, Block E/2, Road No. 61, Molarband Extension, Badarpur, New Delhi, PIN- 110044.
2. The Accountant General (A and E), Bihar, Patna.

... .. Respondents.

Appearance :

For the Appellants	:	Mr. Vivek Prasad, G.P.7 Mr. Binod Kumar Sinha (A.C. To G.P.7)
For the A.G.	:	Dr. Anand Kumar, Advocate.
For the Respondents	:	Mr. Prashant Prakash, Advocate. Mr. Sanjay Kumar, Advocate. Mr. Baban Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-11-2023

The present L.P.A. is filed in assailing the order dated



28.04.2021 passed in C.W.J.C. No.2624 of 2017.

2. The original respondent Surendra Prasad Singh while working as Sub Divisional Officer had committed the certain irregularities. He was subjected to disciplinary proceedings and it was concluded in imposition of penalty withholding 5% pension.

3. Feeling aggrieved by the imposition of penalty, the original respondent Surendra Prasad Singh filed C.W.J.C. No.2624 of 2017 and it was allowed on 28.04.2021. Extract of the order of the learned Single Judge dated 28.04.2021 reads as under:

“10. Accordingly, Annexures-5 and 9 are hereby quashed. The respondents are directed to restore not only 5% pension to the petitioner forthwith, but also directed to pay salary for the period the petitioner was put under suspension.

11. Necessary corrective measures must be taken by the office of Accountant General, Bihar within a period of two months from the date of receipt of a copy of this order.

12. In the event, the benefit is not restored in terms of the direction issued by this Court, the petitioner shall be entitled for interest at the rate of 12% per annum from the date of retirement till the date of actual payment, which shall be



borne out by the disciplinary authority from his own pocket.

13. With the aforesaid, the writ application stands allowed.”

4. The State-Respondents restricted present L.P.A. insofar as imposition of 12% interest on all arrears only.

5. It is submitted that having regard to the alleged allegation and withholding 5% pension in a departmental inquiry, it is not appropriate for this Court to grant interest on arrears. It is also submitted that during the pendency of the lis, deceased Government Servant is stated to have died. Thereafter, there were protracted correspondence among the legal heirs of the deceased employee and Department which has resulted in delay in settlement. However, the appellants were prepared to settle the principal amount to the legal heirs of the deceased employee.

6. Per contra, learned counsel for the respondents resisted the aforementioned contention and submitted that there is no infirmity or any lacuna in the order of the learned Single Judge dated 28.04.2021 passed in C.W.J.C. No.2624 of 2017. Moreover, the appellants have not assailed the order on merit. Their arguments are restricted to only payment of interest. It is submitted that consequent upon penalty order of withholding



5% of pension the money was lying with the appellants and they have earned interest. Therefore, the contention of the appellants that the respondents are entitled to interest on all arrears amount which was due to the deceased employee.

7. Taking note of the aforementioned contentions to the extent whether the respondents are entitled to interest at 12% per annum from the date of retirement of the deceased till the date of actual payment would be on higher side or not. In the light of the Reserve Bank Policy decision during the intervening period from the date of retirement till the date of actual payment the rate of interest ordinarily it is at 6%. Therefore, we modify the order of the learned Single Judge dated 28.04.2021 passed in C.W.J.C. No.2624 of 2017 to the extent of 6% interest on all arrears amount instead of 12%. The same shall be calculated and disbursed in favour of the nominee. In the event of the deceased employee has not nominated any nominee in that event the concerned respondents are hereby directed to obtain legal heirs certificate or succession certificate. On receipt of such document settle the matter at the earliest. If all arrears along with the interest at the rate of 6% is not paid within a period of four months from today, the respondents are entitled to cost of litigation and it is quantified at Rs.50,000/-.



8. Accordingly, the present L.P.A. stands disposed
of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2023.
Transmission Date	NA

