# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.12729 of 2021**

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Sita Ram Singh, Son of Late Ram Surat Singh, Resident of Village- Bishnu Nagar, Bazar Samiti, Anaeth, P.S. Nawadah, District- Bhojpur (Arah).

... ... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Bihar, Patna.
2. The Director General-cum-Inspector General of Police, Bihar, Patna.
3. The Inspector General of Police, Muzaffarpur Range, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Superintendent of Police, Jahanabad.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Upendra Mishra, Advocate |
| For the Respondent/s | : | Md. Irshad, AC to SC- 1 |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**
**ORAL JUDGMENT**
**Date : 27-03-2025**

Heard the parties.

2. The petitioner, who superannuated on 30.06.2019 from the post of Sub-Inspector of Police, on being aggrieved with the inaction of the respondent authorities in not extending the retiral benefis and other dues, moved before this Court by filing the present writ petition.

3. Mr. Upendra Mishra, learned Advocate for the petitioner fairly submitted that notwithstanding the fact during the pendency of the writ petition, the petitioner has been accorded the substantive retiral benefits and other dues, but after much delay and, as such, in any view of the matter the petitioner

is entitled to get interest over the delayed payment.

4. Learned Advocate for the State while dispelling the aforesaid contention has submitted that the delay, if any, caused in payment of retiral benefits that has occurred on account of pending litigation and certain reasons beyond the control of the respondent authorities.

5. This Court time without number has issued mandate that the entire procedure/formalities of payment of retiral benefits must be completed before the date of superannuation and the entire payment ought to be made on the date when the Government employees superannuate. The issue of interest over the delayed payment has been considered on various occasions, that in case there is latches on the part of State respondent authorities, the employees must get interest over the delayed payment. It would be apt and proper to refer the judgment of this Court in the case of ***State of Kerela & Ors. vs. M. Padmanabhan Nair, (1985) 1 SCC 429*** wherein the Hon'ble Court held in paragraph no. 1 as follows:-

> *"1. Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with*

*the penalty of payment of interest at the current market rate till actual payment."*

6. The Hon'ble Court further observed that, it will, however, be for the State Government to consider whether the erring officials should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses.

*"5.We are also of the view that the State Government is being rightly saddled with a liability for the culpable neglect in the discharge of his duty by the District Treasury Officer who delayed the issuance of the L.P.C. but since the concerned officer had not been impleaded as a party defendant to the suit the Court is unable to hold him liable for the decretal amount. It will, however, be for the State Government to consider whether the erring official should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses. Such action if taken would help generate in the officials of the State Government a sense of duty towards the Government under whom they serve as also a sense of accountability to members of the public."*

7. In the case of ***Union of India vs. Justice S.S. Sandhawalia, (1994) 2 PLJR SC 48*** the Hon'ble Apex Court has explicitly observed that:-

*"Once it is established that an amount legally due to a party was not paid to it, the party responsible for withholding the same must pay interest at a rate considered reasonable by the Court.*

*Therefore, we do not see any reason to interfere with the High Court's order directing payment of interest at 12% per annum on the balance of the death-cum-retirement gratuity which was delayed by almost a year. We uphold this part of the High Court's order.”*

8. It would also be pertinent to quote some of the important ruling, mandated the Court to accord interest if there was a delay in payment of post retiral benefits :-

*“14. In S.K. Dua v. State of Haryana [(2008) 3 SCC 44] [ : (2008) 2 PLJR (SC) 128 (SC)], the Supreme Court held: “If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof.”*

*15. In H. Gangahanume Gowda v. Karnataka Agro Industries Corpn. Ltd., [(2003) 3 SCC 40], the Supreme Court held that if there was a* *delay in not releasing post retiral benefits, it was mandatory of the court to award interest.*

*16. The pension or gratuity being no longer bounty, the Supreme Court crystalised the payment of interest for delayed payment as a normal practice in O.P. Gupta v. Union of India, [(1987) 4 SCC 328] in the following words: "Normally, this court, as a settled practice, has been making direction for payment of interest at 12 percent on delayed payment of pension. There is no reason for us to depart from that practice in the facts of the present case."*

9. In view of the settled legal position and the contention raised on behalf of the petitioner in causing unexplained delay in ensuring the retiral benefits, including pension and gratuity, which are held to be a property as guaranteed and protected under Article 300-A of the Constitution of India, this Court has no hesitation to direct the respondent no. 3 to consider the claim of the petitioner for interest over the delayed payment of pension and gratuity, in the light of aforenoted rulings.

10. Suffice to say that if the claim of the petitioner finds favour, necessary consequential montery benefit shall be accorded to him within a period of twelve weeks from the date of receipt/production of a copy of this order.

11. The writ petition stands disposed off to the extent indicated hereinabove.

**(Harish Kumar, J)**

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 03.04.2025 |
| **Transmission Date** | NA |