

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4259 of 2021

Nirmala Devi, Widow of Late Permanand Prasad Singh, Resident of Village and Post-Bihari Bigha, Bhagwatpur Karmaur, Police Station-Pandarak, Barh, District-Patna-803214.

... .. Petitioner/s

Versus

1. The State of Bihar through, Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Human Resources Development Department, Government of Bihar, Patna.
3. The Director Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Patna. Bihar.
5. The District Education Superintendent, Patna, Bihar.
6. The District Programme Officer Establishment), Patna, Bihar.
7. The Drawing and Disbursing Officer-Cum-Headmaster Abhayaseek Middle School, Barh, Patna, Bihar.
8. The Block Education Officer, Barh Block-District-Patna, Bihar.
9. The Principal Secretary, Finance Department, Government of Bihar, Secretary, Patna, Bihar.
10. The District ccount Officer, Patna. Bihar.
11. The Treasury Officer, Barh, Patna, Bihar.
12. The Accountant General, Bihar, Veer Chand Patel Path, Patna-800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Shekhar Sinha, Advocate
For the Respondent/s	:	Mr. Advocate General
For the State	:	Mr. Hitesh Suman, AC to SC-12
For the A.G.	:	Mr. Raj Nandan Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

15 03-04-2025

Heard the parties.

2. The petitioner, a hapless widow of Late Permanand Prasad Singh, who superannuated on 31.07.2007 and subsequently died on 26.02.2017, has approached this Court for multifarious reliefs as has been prayed for in paragraph no. 1 of the writ petition. The petitioner apart from seeking award of compensation also claimed interest over the retiral benefits which have been belatedly paid to the petitioner, that too on the



intervention of this Court.

3. Learned Advocate for the petitioner, Mr. Shashank Shekhar Sinha has made strenuous argument and tried to persuade this Court that on account of delay in ensuring the payment of admissible retiral dues/arrears of family pension, the petitioner was subjected to serious mental trauma and sufferings, which cannot be compensated in any manner, but in terms of money. Heavy reliance has been placed on a decision rendered by the Division Bench of this Court in the case of ***Lilawati Mishra vs. State of Bihar & Ors.*** reported in (2022) 2 ***PLJR*** 671. Taking this Court through the decision aforementioned, he further submitted that right to receive pension/family pension is a statutory right and duly protected under Article 300A of the Constitution of India. Any transgression would certainly infringe the 'Right to Life' enshrined under Article 21 of the Constitution of India, moreover, the learned Division Bench of this Court taking note of the sufferings has awarded an exemplary cost quantified to rupees five lakhs in favour of the petitioner of the writ petition.

4. Mr. Hitesh Suman, learned Advocate for the State referring to the counter affidavit submitted that the deceased husband of the petitioner was superannuated from service in the year 2007 and later on died in the year 2017, however, he was



allowed provisional pension soon after his retirement including other admissible dues. So far the disruption of provisional pension is concerned, the same was on account of non-submission of necessary papers including the original service book. However, he fairly submitted that so far the claim of the petitioner for reimbursement of any amount, which was deducted under the TDS, the petitioner is obliged to file form 89 before the concerned treasury, whereupon the amount deducted shall be credited in the account of the petitioner. It is also submitted that so far the present writ petition is concerned, the same is barred by Principle of Constructive Res Judicata, inasmuch as, the petitioner had the liberty to raise all the claim and the prayers made herein, however, the petitioner failed to do so.

5. Considering the facts of the present case and the submissions advanced by learned Advocate for the respective parties, this Court *prima facie* finds that there is a substance in the submission advanced by learned Advocate for the State to the extent of the writ petition being barred by the Principle of Constructive Res Judicata, however, this Court finds that on the earlier round of litigation, the matter was placed before the learned Lok Adalat, where the issue regarding the pensionary benefit came to be settled, however, the issue of interest



remained open and, in fact, there was no adjudication even on the point of interest.

6. In the aforesaid facts, this Court deems it fit and proper to dispose off the writ petition with a liberty to the petitioner to file a detailed representation confining his prayer to the interest over the delayed payment. If the same is filed preferably within a period of four weeks' from today, the District Education Officer, Patna shall be under obligation to consider the same in the light of the decision rendered by the Apex Court in the case of *State of Kerela & Ors. vs. M. Padmanabhan Nair, (1985) 1 SCC 429*; *Union of India vs. Justice S.S. Sandhawalia, (1994) 2 PLJR SC 48* and *Alok Shanker Pandey vs. Union of India & Ors., (2007) 2 SCR 737*.

7. 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."

8. It is expected that the entire exercise must be completed preferably within a period of twelve weeks thereafter. Suffice it to observe that in case the claim of the petitioner finds favour, necessary consequential benefit shall be accorded to him within the stipulated period.

9. The writ petition stands disposed off.

(Harish Kumar, J)

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