

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.670 of 2022

In
Civil Writ Jurisdiction Case No.21002 of 2021

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Kuldip Paswan son of Late Sadho Paswan, Resident of Village- Maheshi, P.O. Tilakpur, P.S. Sultanganj, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Saran, Chapra.
3. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Ms. Pravina Kumari, Advocate
For the Accountant General	:	Mr. Vivekanand Kumar, Advocate
For State	;	Mr. P.K. Verma, AAG 3
		Ms. Divya Verma, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-01-2025

Re : I.A. No. 01 of 2022

Heard I.A. No. 01 of 2022 filed for condonation of delay in filing the present LPA No. 670 of 2022. There is delay of about 64 days.

2. For the reasons stated in the application read with the affidavit, delay of about 64 days in filing of the LPA, is condoned.

I.A. No. 01 of 2022 stands allowed.



Re : LPA No. 670 of 2022

3. In the writ petition the appellant has prayed for the following relief :

“That this is an application for issuance of an appropriate writ(s), order (s), direction (s) directing the respondents to pay the arrear of five installment of salary of VIth P.R.C. amount, entire G.P.F., Ear Leave, remaining amount of gratuity, benefit of VII P.R.C., benefit of A.C.P., revision of pension and other admissible dues with interest.”

4. The learned Single Judge has proceeded to pass the following short order :

“Though the present writ petition was filed for grant of retiral dues to the petitioner herein, however, during the interregnum period, the entire retiral dues of the petitioner has stood paid and in fact, the Director General of Police, Bihar, Patna has filed an affidavit today, wherein the reasons for delay in grant of pensionary benefits has been explained, which is accepted.

At this juncture, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to agitate his subsisting grievances before the



respondent authorities. Liberty, so sought, is granted.

The writ petition stands disposed of.”

5. Feeling aggrieved by the order of the learned Single Judge dated 19.09.2022 passed in CWJC No. 21002 of 2021 appellant has presented the present appeal. The appellant is stated to have attained age of superannuation and retired from service on 31.01.2011 while holding the post of A.S.I. (Bihar Police). His retiral benefits have not been settled for almost one decade. The appellant has approached this Court in the year 2021. Delay would not be a hurdle for the reasons that non-settlement of retiral benefits and payment of pension on monthly basis is a continuing cause of action. That apart, no third party right is affected. This principle has been laid down by the Hon'ble Supreme Court in the case of ***M.R. Gupta vs. Union of India & Others*** reported in (1995) 5 SCC 628.

6. Further we have noticed that appellant's retiral benefits are stated to have been settled in part on 29.08.2022. The appellant has not filed a fresh writ petition insofar as remaining portion of the retiral benefits like granting temporary gratuity and it has not been finalized. Be that as it may, there is inordinate delay in settling the retiral benefits due to the fault on the part of the



Department to the extent that certain service records have not been updated in the C.F.M.S. and H.R.M.S. module. This is evident from the communication dated 01.09.2022 of Bihar Police Headquarters. Therefore, appellant is entitled to interest @ 8% *per annum* prior to three years insofar as filing of the CWJC in the year 2021. This principle has been laid down in the aforementioned decision of the Hon'ble Supreme Court in the case of ***M.R. Gupta vs. Union of India & Others***. In other words, appellant is entitled to interest from 01.01.2018 till 29.08.2022, the same shall be calculated and disbursed within a period of two months from the date of receipt of this order. Insofar as payment of portion of the gratuity, if it is not paid, the same shall be paid to the appellant within a period of three months.

7. At this stage, we have to take note of Hon'ble Supreme Court decision in the case of ***Vijay L. Mehrotra vs. State of Uttara Pradesh and Others*** reported in **2001 9 SCC 687** in which Hon'ble Supreme Court has held that on all such dues, the retired employee is entitled to interest including arrears of salary. The same shall be taken note of by the concerned authority and disburse the interest in favour of the appellant on all dues. To this effect, order of the learned Single Judge dated 19.09.2022 passed in CWJC No. 21001 of 2021 stands modified. If the



aforementioned directions are not implemented timely, in that event, appellant is entitle to litigation cost and it is quantified @ Rs. 10,000/- (Rupees Ten Thousands).

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.02.2025
Transmission Date	NA

