



2026:DHC:3309



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 30th January, 2026**
Pronounced on: 21st April, 2026

+ **W.P.(C) 7421/2011**

GANESH JEE PATHAK

S/o Late Sant Bilas Pathak

R/o A-70, Arya Nagar Apartment

Plot No. 91, I.P. Extension (Patparganj)

Delhi-110092

....Petitioner

Through: Mr. Sanjeet Trivedi, Mr. Rajesh
Pathak, Mr. Ishank Gupta, Ms. Prachi
Patwal, Advocates.

versus

1. **RESIDENT COMMISSIONER**

Govt. of Jharkhand, Jharkhand Bhavan,
Kusumpur Pahari, Vasant Vihar
New Delhi

...Respondent No.1

2. **STATE OF JHARKHAND**

Through Chief Secretary
Project building, Dhurva
Ranchi, Jharkhand

....Respondent No. 2

3. **LAW SECRETARY**

Government of Jharkhand
Department of Law, Project Building,
Dhurva, Ranchi, Jharkhand

....Respondent No.3

4. **FINANCE SECRETARY**

Government of Jharkhand
Department of finance
Project Building
Dhurva, Ranchi, Jharkhand

....Respondent No.4



5. **SECRETARY (PERSONNEL AND
ADMINISTRATIVE REFORM AND RAJBHASHA)**

Government of Jharkhand

Department of Personnel, Administrative Reforms & Rajbhasha,
Project Building,

Dhurva, Ranchi, Jharkhand.

.....Respondent No. 5

Through: Mr. Jayesh Garurav, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Writ Petition under Article 226 of the *Constitution of India* has been filed on behalf of the Petitioner for *directing the Respondents to pay the pension and other retiral benefits along with the interest @18% p.a.*
2. The Petitioner stated that he was appointed on 02.09.1974, as Steno Typist with the erstwhile State of Bihar and was posted at New Delhi with the Standing Counsel, *Government of Jharkhand, Sampark Karyalaya, Bihar Bhawan, New Delhi*. He completed his entire service tenure and retired on 31.03.2009 from Delhi only. *The Petitioner was granted time bound promotion in the year 1984 and was given the pay scale of 730-15-820-980.*
3. As per the policy decision of the Government, to upgrade the post of Steno Typist to Personal Assistant, Petitioner was upgraded/re-designated as Personal Assistant *vide* Office Order No.356 dated 23.06.1995, passed by the undivided State of Bihar, Department of Personnel, which had given list of 23 upgraded Personal Assistant as per their seniority. The posting of the



Petitioner remained the same in the Law Department, Government of Bihar, New Delhi.

4. In pursuance of the Reorganisation Act, 2000, the State of Bihar was re-organized into two successor State, namely Bihar and Jharkhand, which came into effect from 15.11.2000. The Central Government had been empowered to allocate employees to both the States under Section 72 of the Bihar Re-organisation Act, 2000. **The Petitioner was allocated to the State of Jharkhand.** He remained posted in New Delhi even after he was allocated to the Government of Jharkhand, till the date of his retirement.

5. The Respondent had prepared a Provisional Seniority List of Personal Assistants. The Petitioner found several discrepancies in the said list, i.e., details against his name were left blank in all columns and, further, his juniors were shown above him.

6. Aggrieved by the discrepancies, the Petitioner submitted a representation in July, 2006 to the Standing Counsel as well as to the Respondents; however, no action was taken. The Petitioner thereafter, made another representation, in response to which the Respondents, *vide* Letter dated 30.08.2006, directed the Standing Counsel of the State of Jharkhand, with whom the Petitioner was attached, to furnish relevant details and documents, including the *Confidential Reports (CRs)*, for consideration of his case for promotion/ACP by the *Departmental Promotion Committee (DPC)*.

7. All the required information and documents were duly sent to the Respondents by the Standing Counsel, Government of Jharkhand, Sampark Karyalaya, New Delhi, *vide* Letters dated 12.12.2006, 26.11.2007 and 15.01.2008. Despite receipt of the requisite documents and information, the



Petitioner was neither considered for promotion nor informed about the status of processing of his pension papers.

8. Thereafter, the Petitioner made a representation dated 03.01.2009, followed by a reminder dated 21.02.2009, *seeking processing of his pension papers and completion of formalities for release of post-retiral benefits*. A similar Representation dated 29.03.2009 was also made for processing of his service book and related documents.

9. Meanwhile, the Standing Counsel addressed a Letter dated 07.03.2009, regarding non-grant of promotion and subsequently forwarded the Confidential Reports of the Petitioner *vide* Letter dated 13.03.2009.

10. The Petitioner claimed that since he remained in Delhi for his entire service period, work condition, leave and salary were granted from New Delhi. The control and superintendence were exercised by Standing Counsel/Respondent No. 1 i.e. *Resident Commissioner/Chief Administrative Officer, Jharkhand Bhawan, New Delhi*. The Petitioner had received his *Form 16 under Rule 31(1) (a) of the Income Tax Rules* from the Respondent No. 1.

11. After completing 34 years of service with the Respondents, the Petitioner retired on 31.03.2009. No action was, however, taken by the Respondents, *for release of his retiral benefits, as well as, arrears of salary after 6th Pay Commission, much less the grant of regular promotion to the post of Private Secretary*.

12. The Petitioner visited the Office of the Respondent No. 3 multiple times for his pension and post retiral benefits and completed all the formalities.



13. On 27.06.2009, the Petitioner was directed by Respondent No. 3 to approach Respondent No. 4 for completion of further formalities such as verification. Upon approaching Respondent No. 4, the Petitioner was again required to complete additional formalities for release of pension, post-retiral benefits and arrears. The Petitioner also requested Respondent Nos. 1 and 3 in June, 2009 to grant provisional pension till finalisation of pension; however, no action was taken.

14. Despite several representations, *the Respondent No. 1 eventually released certain retiral dues, namely GPF in September, 2009, leave encashment in October, 2009, and GIS along with arrears of salary in December, 2009, by way of cheque, after a delay of about 6–9 months, and without payment of any interest for the said delay.*

15. The Petitioner continued to make repeated representations and also personally approached the Respondents; however, no effective action was taken. In response to his reminder letters, the Petitioner received a Letter dated 23.09.2010 from Respondent No. 4 addressed to Respondent No. 1, wherein the responsibility for grant of post-retiral benefits and processing of pension papers was shifted upon Respondent No. 1, clearly reflecting that the Respondents were evading responsibility and passing the *onus* upon each other.

16. The Petitioner received copy of the Office Order dated 03.12.2010 from the Respondent No. 5 granting him Promotion under Scheme of ACP from 26.06.2007, instead of Regular promotion to the post of Private Secretary *but even thereafter, no arrears of difference in salary due to promotion, were granted to him.*



17. As per the Order issued by the Government of Bihar, *vide Memo No. Pen-1032/67-8739 F* dated 13.07.1967, *for provisional pension, gratuity and D.C.R. Gratuities @75% with regard to simplification of Bihar Pension Rules and procedure for grant of pension and same was enhanced to 90% by Finance Department No. 3014 dated 31.07.1980*. The Petitioner asserted that **there was delay in release of pension without any sufficient cause.**

18. Reliance is placed on State of Kerala vs. V.M. Padmanabhan, 1985 SCC (1) 429, wherein, “*it was held that pension and gratuity are no longer any bounty to be distributed by the Government to its employees but is a valuable right of property in their hands and any culpable delay in settlement and disbursement would be visited with the penalty of payment of interest at the current market till actual payment is made.*”

19. The Petitioner sought ***the grant of payment of pension, arrears of pension along with gratuity and computation of pension with interest @18% p.a. on the said amounts, which had become due w.e.f. 31.03.2009. He also sought directions for being granted regular promotion to the post of Private Secretary and for arrears in the difference in salary. He also sought directions for payment of interest @18% for delayed payment of his retiral benefits.***

20. The ***Respondent No. 3 in his Counter-Affidavit*** explained that except the claim of retiral benefits and pension, no other claim of the Petitioner, is admissible. The D.P.C was convened and the Petitioner was granted A.C.P. All other averments made in the Petition, were denied except that the Petitioner retired on 31.03.2009.

21. It was explained that post his retirement, the retiral benefit could not be finalized due to non-availability of Service Book, which was procured



from Department of Personnel, Government of Bihar *vide* Letter dated 03.02.2010. The File related to confirmation of A.C.P. was sent to the Department of Personnel, Administrative Reforms and Rajbhasa, Government of Jharkhand, which was returned to Law (Judicial) Department on 11.11.2011 along with Office Memo No. 334 dated 03.12.2010. Law (Judicial) Department passed an Order regarding confirmation of ACP within seven days, *vide* Memo No. 3129 dated 18.11.2011. ***There was no delay on the part of Law (Judicial) Department.***

22. The Memo No. 346/J dated 08.02.2013 regarding grant of provisional pension from 01.04.2009, had also been issued by Law (Judicial) Department to the Accountant General, Jharkhand. Respondent No. 3 had taken all efforts for finalisation and fixation of pension of the Petitioner and in this connection, it was found that the pension papers submitted by the Petitioner, were defected and this fact was duly communicated to the Petitioner.

23. The ***Additional Affidavit was filed on behalf of the Petitioner*** wherein he affirmed that despite an undertaking of the Respondent No. 1 on 05.07.2012, to comply with the Order dated 03.07.2012, to release the pension, arrears of pension, gratuity and computation of pension along with interest @18%, it had not been complied by the Respondents.

24. In compliance of the Order dated 05.07.2012, the Respondent No. 1 had filed an Affidavit in compliance of the Order of the Court and stated that pension and gratuity, have been sanctioned. However, the perusal of the documents, reflects that no such order or sanction with regard to computation of pension @40% and arrears of pension, had been sanctioned. The Respondent No. 2 had forwarded the pension papers of the Petitioner to



Accountant General with a covering Letter dated 19.07.2012, of Law Department wherein it was requested that pension and Gratuity be granted to the Petitioner but it has not issued any directions regarding computation of pension.

25. It was claimed that the Respondents had been unnecessarily harassing the Petitioner and there was a delay in processing of pension papers without any justification or explanation. The last Pay Certificate was issued in the year 2012. The Respondent had requested for *No Objection Certificate* from other Departments only in the month of July, 2012. It shows that the apathy of the Respondents towards the responsibility to process the pension papers and issue these documents in time despite the Petitioner having submitted all the papers in advance and also after retirement.

26. The plea of the Respondents in regard to defect in pension papers, it is stated that Respondents first time pointed out the defects on 11.06.2012 i.e. after five years of submission of the pension papers. The Petitioner had mentioned the name of SBI with Account Number for receiving the payment of pension instead of the name of treasury. This was duly replied by the Petitioner on 23.06.2012.

27. Moreover, Bihar Treasury Code Sub Section II for place of payment of pension in **Clause 203** (*adopted by the Government of Jharkhand*) provides for service pension payable in India, may be drawn from any treasury/public sector Bank in India. The Petitioner thus reiterated the relief as stated in the Petition.

28. The **Additional Affidavit** wasp submitted on behalf of the **Department of Law, Government of Jharkhand**. It was clarified that the Petitioner had to present himself physically for proper identification for



receiving the pension for the first time in terms of Section 345 (1) of the Treasury Code. The Treasury Officer has already, *vide* Letter dated 31.08.2012 communicated that the entire calculation has been done by the Treasury and the amount shall be released once comparison of signature is made.

29. Furthermore, the perusal of the Petitioner's Application for computation, would show that he had not stated the percentage of pension to be commuted. Moreover, the date, which is mandatory, was also missing from the Application. The objections were taken in this regard. As per Section 250, Jharkhand Pension Rules, the Petitioner had to present himself before the Medical Board and after which, the commutation of the pension could be done.

30. Neither the Land Secretary nor Resident Commissioner, has the Authority to waive the compliance of Section of 345 of the Treasury Code and Section 205 of the Pension Rules. Furthermore, the commutation of pension is a matter between the Petitioner and the Accountant General and the answering Respondents do not have any authority in this regard. The rest of the averments as contained in the Affidavit, were reiterated.

31. ***Written Submissions were filed on behalf of the Petitioner.***

32. The Plaintiff in her Written Submissions, has clearly flagged *two aspects on which, he is seeking a relief*. The *first* is in regard to the payment of interest on the delayed release of his pension, gratuity and terminal benefits. The *second* is that his 15 years of computed pension has ended and that his regular pension may be restored, in accordance with rules.

I. Payment of Interest on Delayed release of Pension:



33. The **first aspect** is whether the Plaintiff is entitled to grant of interest for the delay in releasing his benefits.

34. This aspect had been considered by the Hon'ble Supreme Court of India in the Case of Prem Kumar vs. Indian Road Constructions Committee and Anr., (2007) 98 DRJ 546 and Roshan Lal and Ors. vs. DTC, (2007) 140 DLT 49, held that whenever an amount is illegally withheld by a party, interest is payable thereon, to the other side, on the simple logic that the person is entitled to receive the said amount of which he has been wrongfully deprived, to his detriment. In case of such wrongful withholding of money, the party must be restituted by payment of interest on the principal sum, due and payable

35. Likewise, Apex Court in the case of Uma Agrawal (Dr) vs. State of U.P., (1999) 3 SCC 438, observed that:

“The grant of pension is not a bounty, but the right of the retired Government employee and delay in settlement of retiral benefits is frustrating and must be avoided, at all cost. It was further observed in that case that the Petitioner retired on 30.04.1993, though the arrears were released only after Interim Order was passed by Supreme Court on 12.02.1996, in the Writ Petition. Respondents woke up only then and started sending messages to various places, where the Petitioner had worked. Such an exercise should have been started two years before the retirement”

36. Similarly, in the case of State of Kerala vs. M. Padmanabhan Nair, (1985) 1 SCC 429, Supreme Court granted interest @ 6% per annum on the pension and gratuity due to the Respondent by observing that:

“...duty was cast on the District Treasury Officer to grant every retiring Government employee, Last Pay



Certificate, which had been delayed by the concerned Officer, for which there was no justification of explanation.”

37. In the present case, it is not denied that the petitioner retired on **31.3.2009** and his retiral benefits should have been released within three months i.e. by **30.06.2009**. Article 65(5)(a) states that where a Government servant retires on superannuation, interest shall be paid from the date following the date of expiry of a period of three months from the date of retirement upto the date of payment of arrears of pension or gratuity or both.

38. The Petitioner was granted Promotion under scheme of ACP from 26.6.2007. The **retiral dues, namely GPF in September, 2009, leave encashment in October, 2009, and GIS along with arrears of salary in December, 2009**. There had been a delay in release of pension and other terminal benefits by six to nine months.

39. Though, the Respondent had tried to explain the same by claiming procedural challenges, but this can be no reason or explanation for delay especially when it comes to pensionary and retirement benefits. It was for the Respondents to have initiated the process for calculation of pension and other benefits, at least three months in advance of the date of retirement of a person.

40. It cannot be over-emphasized that the pension and other benefits, is a lifeline for the survival of the person, who retires from the service. Moreover, delay in release of terminal benefits is deprivation of the right of life and liberty as enshrined in Article 14 and 21 of the Constitution of India. ***The Petitioner is, therefore, had entitled to interest on the delayed payments, beyond 30.06.2009 till the date of payment.***



41. **The last question for consideration is the rate at which interest be granted to the Petitioner.**

42. Article 65(1) of the Central Service (Pension) Rules, 2021, provides for interest on delayed payment of gratuity, pension and family pension. It provides that in case, family pension, provisional gratuity are delayed beyond the date when its payment becomes due and the delay is attributable to the administrative reasons or lapses, interest shall be paid as applicable to General Provident Fund amount, in accordance with the instructions issued from time to time.

43. Further, Article 65(5)(a) states that where a Government servant retires on superannuation, interest shall be paid from the date following the date of expiry of a period of three months from the date of retirement upto the date of payment of arrears of pension or gratuity or both.

44. From these Rules, it is evident that any delay beyond the period of three months in payment of pension, gratuity or arrears of pension, the interest as may be notified, is payable.

45. The GPF Rate of Interest since **2008 till 2023 has varied between 8.8% to 7.1%**. Thus, on an average, the rate of interest which would be equitable, is calculated **@8% p.a. simple interest**, which is hereby, awarded to the Petitioner.

II. Grant of Regular pension on expiry of period of Commuted Pension in 2024:

46. The second relief, which the Plaintiff/Petitioner has sought, is that he had commuted his pension at the time of retirement, which has got over on 31.03.2024 and he has now become entitled to full pension. The directions



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may be given to the Respondents, to promptly process his case and restore his full pension.

47. It is pertinent to observe that the Petition got filed in 2011 wherein the prayer was for arrears on delayed payments. The commuting of his pension, had got over during the pendency of the present Petition on 31.03.2024. In order to get the same restored, the Petitioner is required to move an application and follow the procedure thereof. There can be no directions given in this Petition. However, in case, the Application has been filed or is filed by the Petitioner, for complete pension, the same may be process expeditiously and preferably within three months from the filing of the Application or from the date of this Order, as the case may be.

Conclusion:

48. The petition is partly allowed and the respondents are directed that the said calculation be made of interest @ 8% for the delayed period in release of the pension, and the amount be released to the Petitioner, within eight weeks. Writ Petition is disposed of accordingly. Pending applications, if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 21st, 2026/RS