IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2591 of 2018

==

Upendra Kumar Verma Son of late Dwarika Prasad Resident of Village Sandalpur, P.S. Gopalpur, District Nalanda at Present residing at Villa No. B-44, Amrapali Leisure Valley, G.H 02, Tech Zone- 4, P.O. Bisrakh, Greater Noida West , Surajpur, Gautam Buddha Nagar, Uttar pradesh- 201306

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Health, Bihar, Patna.
3. The Secretary, Family Welfare, Department of Health, Bihar, Patna.
4. The Director-in-chief, Health Secretary , Department of Health, Govt. of Bihar, Patna.
5. The Under Secretary-cum-Drawing and Disbursing Authority, State Family Welfare , Bureah, Department
6. The Accountant General, Bihar,Patna.
7. The Director, General Provident Fund, Bihar, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Arjun Pd. Keshri, Advocate.
For the Respondent/s	:	Mr. Rajeshwar Singh -GA-10
For the Accountant General:		Mr. Prabhat Ranjan, Advocate.
		Mr. Chandan Kumar, Advocate.

==

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

5 28-02-2023 Heard learned counsel for the parties concerned.

Petitioner retired from the post of Lecturer (Statistics) on 24.02.2014. He had approached this Court earlier in CWJC No. 16063 of 2014 for payment of his post retiral dues.

During pendency of the earlier writ application, some payments were made and ultimately, the matter was referred to the Lok Adalat and the case was disposed of with a direction to the petitioner to appear before the authorized officer/authority of the Department concerned for payment of statutory interest on account of delayed payment of retiral dues. The petitioner appeared before the concerned authority and a reasoned order has been passed denying the interest to the petitioner upon pension and gratuity on the ground that the petitioner was himself responsible for the delay.

An amendment petition has been filed by way of supplementary affidavit by the petitioner challenging the reasoned order dated 15.3.2018 which has been annexed as Annexure-C to the counter affidavit and 7 to the supplementary affidavit.

Learned counsel for the petitioner by assailing the reasoned order submits that even if it is accepted that the petitioner was responsible for some delay, but, from perusal of the impugned order it would be evident that the sanction letter for payment of pension and gratuity was sent by the concerned authority to the Accountant General on 26.07.2016. The Accountant General demanded the service history/service book of the petitioner vide its letter dated 13.08.2016, but, the same was sent by the controlling authority on 26.05.2017. Therefore, his submission is that in view of the circular of the State Government dated 2.1.2004 (Annexure-9 to supplementary affidavit), the petitioner is entitled to be paid 5% interest upon delayed payment of pension and gratuity.

On the other hand, learned counsel for the State argued that the petitioner did not produce the deduction towards the income tax for the period 2013-14. Despite repeated demand by the concerned authority, he failed to produce income tax deduction, and, ultimately in the year 2015 on the basis of the materials available on record, the last pay drawn of the petitioner was fixed and the sanction letter was sent to the Accountant General for payment of pension and gratuity of the petitioner on 26.07.2016.

I have heard learned counsel for the parties.

The petitioner retired on 24.02.2014. The claim of the petitioner is for payment of 5% interest upon the pension and gratuity which according to the petitioner is payable as per the circular of the State Government.

The contention of the respondents/State is that though the petitioner retired on 24.02.2014 but, he did not furnish the relevant deduction towards income tax which caused delay in assessing the last pay drawn of the petitioner.

It is an admitted position that the sanction letter was issued by the respondents/State on 26.07.2016. The sanction letter was issued without any supporting documents i.e. service book and service history of the petitioner and upon demand being made by the Accountant General, the relevant documents/service book and service history was furnished by the State on 26.05.2017 and, thereafter, within one month the authority slip was issued by the Accountant General. Even the submission of learned counsel for the State is accepted, there is apparent delay in payment of interest on the part of the respondents/State between 26.7.2016 and 26.5.2017.

Taking into consideration the aforesaid discussion on fact and the circular of the State Government for payment of interest, I come to the conclusion that the petitioner is at least entitled for 5% simple interest on delayed payment of pension and gratuity starting from 26.7.2016 to

26.5.2017.

Accordingly, I direct the concerned authority to pay the simple interest @ 5% on pension as well as gratuity for the aforesaid period to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

With aforesaid observation and direction, this writ application stands disposed of.

(Anil Kumar Sinha, J)

S.Ali/-

U			