



IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S). No. 1991 of 2024

Sant Lal Singh, son of Ram Chandra Singh, resident of village Nagla,
P.O. Nagla (Kinjar), P.S. Kinjar, Dist. Arwal, State Bihar-804423.

..... **Petitioner**

Versus

1. State of Jharkhand.
2. The Transport Commissioner, Jharkhand, Ranchi, 3rd Floor, Ranchi Samaharanalaya, Kutchery Road, Ranchi, P.O. GPO Main Road, P.S. Kotwali, Ranchi-834002.
3. The Deputy Commissioner-cum-the Secretary, Regional Transport Authority, North Chhotanagpur Region, Hazaribagh, P.O.+P.S.+Dist. Hazaribagh.
4. The District Transport Officer, Dhanbad, Kasturba Nagar, P.O. & P.S. Dhanbad, Dist. Dhanbad, Jharkhand.
5. The District Transport Officer, West Singhbhum, Chaibasa, P.O. & P.S. Chaibasa, Dist. West Singhbhum, Jharkhand.
6. The District Transport Officer, Palamau, P.O.+P.S. Palamau, Dist. Daltonganj.
7. The District Transport Officer, Bokaro, P.O.+P.S. Bokaro Steel City, Bokaro, Jharkhand.
8. The State of Bihar.
9. The Transport Commissioner, Bihar, Patna, Vishwesaraiya Bhawan, P.O. Bailey Road, Punaichak, P.O. Shastri Nagar, Dist Patna-800001.

..... **Respondents.**

CORAM: HON'BLE DR. JUSTICE S.N.PATHAK

For the Petitioner : Ms. Neeharika Mazmudar, Advocate
For the Respondents : Mr. Gaurav Raj, AC to AAG-II
Mr. Diwakar Upadhyay, Advocate

08/ 23.10.2024 Heard the parties.

2. Petitioner working as clerk in the office of the District Transport Officer, Palamau, superannuated from the service on 31.03.2011 but till date the retiral benefits-cum-pension has not been extended to the petitioner on the ground that service book of the petitioner is not available.

3. It is the specific case of the petitioner that after retirement several representations were filed but the same were not taken into consideration by the respondents on the ground that service book is not available. It has been



submitted that custodian of the service book is the respondents themselves and petitioner cannot be made to suffer on the ground of non-availability of the service book.

4. On the other hand, it has been submitted by learned counsel for the petitioner that in absence of service book, the pensionary benefits cannot be extended to the petitioner. It has been further submitted that already a direction has been given to the Regional Authorities for reconstruction of the service book of petitioner and as soon as the same is reconstructed the benefits shall be extended to the petitioner, in accordance with law.

5. Having heard the parties at length, this Court is of the considered view that the case of petitioner needs consideration. Admittedly, petitioner superannuated on 31.03.2011 but even after lapse of 13 years, the retiral benefits have not been extended to him. The plea of the respondents that direction has already been issued for reconstruction of the service book is not accepted to this Court. The respondents are the custodian of the service book and fruits of retiral benefits cannot be denied to retired person for 13 long years on the pretext of non-availability of the service book. The retiral benefits are not bounty at the hands of the respondents. It is not dependent upon the mercy or sweet-will of the employer rather it is right of an employee to get pensionary benefits and the technicalities cannot come in the way of granting the pensionary benefits. If a law has been laid down and constitutional safeguard has been provided, the same cannot be turned-down on the ground of technicalities. The very basis for grant of such pension is to facilitate retired government employee to live with dignity in his/her winter of life and thus such benefits shall not be unreasonably denied to a retired employee.

6. The Hon'ble Apex Court in case of **D.S. Nakara & Ors. Vs. Union of India**, reported in (1993) 1 SCC 305 and further in case of **Union of India Vs. Gurnam Singh**, reported in (1982) 2 SCC 314 has clearly given a direction to pay the retiral benefits to the employees soon after their retirement.



7. The similar issue fell for consideration before the Hon'ble Apex Court in the case of **Kerala Vs. M. Padmanabhan Nair**, reported in (1985) **1 SCC 429**, wherein the Hon'ble Court has held as under:

“1.(the) 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 (to the employees)’.”

8. Further, the Full Bench of this Hon'ble Court in case of **Dr. Dudh Nath Pandey Vs. State of Jharkhand & Ors** reported in [2007 (4) JCR 1 (Jhr) (FB)] has held as under:

“25. Before we go into the legal sanctity of the circular, it must be remembered that the leave encashment is paid on account of unutilized leave and therefore, it partakes the character of salary. Pension is no longer considered as a bounty. The salary is a property given to the hands of the State which cannot be withheld except under the powers derived by a statute or law as contemplated under Article 300-A of the Constitution of India as laid down by the Supreme Court in AIR 1988 SC 1407, State of U.P. v. Haji Ismail Noor and AIR 2003 SC 3966, K.S.R.T.C. v. K.O. Varghese.”

9. It also appears that due to lackadaisical and lethargic approach of the respondents, the legitimate demand of the petitioner to get the pensionary benefits have been denied to him for 13 long years and as such, he is also entitled for interest on the pensionary benefits.

10. The Hon'ble Apex Court in the case of **D.D. Tewari (Dead) through Legal Representatives Vs. Uttar Harayan Bijli Vitran Nigam Limited & Ors.**, reported in (2014) **8 SCC 894** has held as under:-

“6. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned Single Judge after adverting to the relevant facts and the legal position has given a direction to the respondent employer to pay



the erroneously withheld pensionery benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 8% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent.”

11. Similar issue has been decided by the Hon’ble Apex Court in case of State of **Andhra Pradesh & Anr. vs. Dinavahi Lakshmi Kameswari**, reported in **(2021) SCC OnLine SC 237**, wherein it is held that salaries and pensions are "rightful entitlements" of government employees and in case of delay, they should be paid with interest at an appropriate rate. The relevant paragraphs of said judgment is reproduced herein below:

“14. The direction for the payment of the deferred portions of the salaries and pensions is unexceptionable. Salaries are due to the employees of the State for services rendered. Salaries in other words constitute the rightful entitlement of the employees and are payable in accordance with law. Likewise, it is well settled that the payment of pension is for years of past service rendered by the pensioners to the State. Pensions are hence a matter of a rightful entitlement recognised by the applicable rules and regulations which govern the service of the employees 10 of the State. The State Government has complied with the directions of this Court for the payment of the outstanding dues in two tranches. Insofar as the interest is concerned, we are of the view that the rate of 12% per annum which has been fixed by the High Court should be suitably scaled down. While learned counsel for the respondents submits that the award of interest was on account of the action of the Government which was contrary to law, we are of the view that the payment of interest cannot be used as a means to penalize the State Government. There can be no gainsaying the fact that the Government which has



delayed the payment of salaries and pensions should be directed to pay interest at an appropriate rate.

*15. We accordingly order and direct that in substitution of the interest rate of 12% per annum which has been awarded by the High Court, the Government of Andhra Pradesh shall pay simple interest computed at the rate of 6% per annum on account of deferred salaries and pensions within a period of thirty days from today.
.....”*

12. As a sequitur to the aforesaid observations, rules, regulations, guidelines and judicial pronouncements, I hereby direct the respondents to pay all retiral benefits including pension with interest @ 6% per annum on the delayed payment of retiral benefits. Further, the respondents shall also pay a cost of Rs.50,000/- to the petitioner, which shall be recovered from the erring Officials, who were responsible for not extending the pensionary benefit in absence of service book. The entire benefits shall be extended to the petitioner within a period of six weeks from the date of receipt/production of a copy of this order.

13. It goes without saying that the matter may be enquired by the Secretary of the Transport Department and whosoever were responsible for not extending the pensionary benefits to the petitioner for 13 long years, shall be proceeded accordingly in accordance with law.

14. With the aforesaid observations and directions, the instant writ petition stands allowed.

(Dr. S.N. Pathak, J.)

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