Dr. Manas Kumar Chatterjee Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Sep-10-2004

Judge : Radha Mohan Prasad, J.

Acts : Service Law

Appeal No. : CWJC No. 16455 of 2001

Appellant : Dr. Manas Kumar Chatterjee

Respondent : The State of Bihar and ors.

Judgement :

R.M. Prasad, J.

1. Heard learned counsel for the petitioner and the learned counsel for the State as well as Mr. Chakradhari Sharan Singh, learned counsel appearing for the Accountant General,

2. Mr. Singh has produced photo copies of the authorities with respect to final pension, gratuity and leave encashment, which have been handed over to the learned counsel for the petitioner.

3. According to the learned counsel for the petitioner, the said authorities are in pre-revised scale and at the time of superannuation of the petitioner, the pay was revised. As such, according to him, the petitioner is entitled for fixation of his retiral

dues in the revised scale.

4. Mr. Singh, learned counsel appearing for the Accountant General has produced a Government resolution dated 8th February, 1999 with respect to revision of scale of pay of the State Government employees. He referred to paragraph 3 of the said resolution, which says as follows:

'3. The revised scales of pay shall come into effect from 1st January, 1996. However, the actual payments in the revised scales would arise with effect from 1st April, 1997. The revised scales of pay will apply to all Government employees who were in service on 1st January, 1996 and to all new appointments made on or after the said date, provided that in respect of the Government employees who were under suspension or on leave or were not on duty on 1st January, 1966, the revised pay scale will be applicable from the date of their return to duty. No arrears would be admissible for the period 1st January, 1996 to 31st March, 1997.'

5. As per the order of punishment, contained in Annexure A to the counter affidavit filed on behalf of respondent No. 5, suspension of the petitioner was revoked from the date of his retirement i.e. on 30th November, 1999. Thus, obviously he never returned to duty since his initial suspension on 16.11.1994. Accordingly, this Court finds that in view of the aforementioned provision in the Government resolution, the petitioner is not entitled for fixation of his retiral dues in the revised scale.

6. The photo copies of the authorities, which have been issued to the Treasury Officer, Katihar, have been handed over to the learned counsel for the petitioner. The Treasury officer, Katihar is, accordingly, directed to ensure encashment and payment to the petitioner pursuant to the said authorities within two days of the receipt/production of a copy of authorities, which shall be produced by the petitioner along with a copy of this order, falling which he shall be liable to pay a cost of Rs. 2,000/-(two thousand) from his own pocket to the petitioner.

7. However, learned counsel for the petitioner has pointed out that the validity of the order of punishment (Annexure A) has been assailed by way of amendment petition.

8. This Court finds that in order to assail the validity of the order of punishment (Annexure A), which is a fresh cause of action, the petitioner should move an appropriate authority/forum by filing a fresh petition. Accordingly, as prayed, the petitioner is given liberty to move an appropriate authority/forum as against the order of punishment.

9. It is needless to say that in case the petitioner succeeds in assailing the validity of the order of punishment, the other retiral benefits shall also have to be fixed accordingly and paid to the petitioner.

10. The writ application is, thus, disposed of.