

Chanda Devi Vs. State of Bihar and ors.

Chanda Devi Vs. State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/136304

Court : Patna

Decided On : Oct-13-1999

Judge : R.M. Prasad, J.

Appeal No. : C.W.J.C. No. 12100 of 1998

Appellant : Chanda Devi

Respondent : State of Bihar and ors.

Judgement :

Radha Mohan Prasad, J.

1. Despite the fact that the petitioner superannuated on 31st March, 1995 her provident fund dues with up-to-date interest was not paid. However, till the matter was heard on the last date on 7-10-99 the authorisation for payment of provident fund dues were issued but the interest were only calculated up to February 1996. This Court having taken serious view of the matter directed for personal appearance of the District Superintendent of Education and District Provident Fund Officer, Patna-Respondent Nos. 2 & 3. However, it was directed that if the authority letter in regard to aforesaid dues is produced the personal appearance shall stand dispensed with. On the last date i.e. on 11-10-1999 no authorisation for interest was issued up to the date of payment. On the request of the learned State Counsel, the matter was adjourned for today. A show cause has been filed on behalf of the District Provident Fund Officer from which it appears that the interest

has been calculated up to 31-8-1999 and authorisation has been issued on 11-10-99 vide Annexure-E/1.

2. Learned Counsel for the petitioner has submitted that though authorisation has been issued for payment of provident fund dues of the petitioner with interest but the said interest has not been paid for the period October, 1995 to December, 1997. In this regard, learned Counsel for the State has referred to the Government notification under which the amount of interest is not payable in case where applications are not filed within six months during the period thereafter till the application is made. According to the Respondents, application has been filed only on 26-12-1997 and as such no statutory interest has been paid on the said amount.

3. This Court fails to appreciate the attitude of the Respondents in unnecessarily harassing a person by not paying the up-to-date interest on such plea. Admittedly, the petitioner submitted her application on 26th December, 1997 yet the payments were not made by the State authorities till 28th April, 1998, even on the said date only part payment was made and for the remaining payment another authorisation was issued on 18-9-1999. When no interest was paid and this Court took serious view of the matter and only thereafter the authorisation for interest were issued on 9-10-99 and lastly on 11-10-1999. This shows gross lapses on the part of the State Authorities, Under the Bihar Pension Rules, filing of application for pension has been dispensed with vide Memo No. Pen-1032/ 67/8739-F, dated 13-7-1967 in the process of simplification of the Bihar Pension Rules and procedure for grant of pension and the responsibility has been fixed on the head of the office in the case of Non-gazetted Government Servant and on the Head of the Department in the case of Gazetted Government Servant to draw up immediately after the retirement of the Government Servant an application in Form 4 and take appropriate action for payment of the pensionary dues.

4. This Court fails to appreciate that as to how under such circumstances a person can be deprived of the interest from due date till the payment has been made. For the fault on the part of the head of the Office or Head of the Department, pensioner cannot be deprived of the interest over the amount which admittedly

was retained by the State and be made to suffer on that account. In any view of the matter, it is a fit case where the petitioner should be awarded with penal interest on account of delayed payment, besides heavy cost.

5. In the facts and circumstances aforementioned this Court directs for payment of penal interest @ 12% over and above statutory interest already paid from the due date of payment till the payment has been made, which shall be calculated and paid within four weeks from today. The petitioner shall also be entitled for cost of Rs. 5,000/- which shall also be paid within the aforesaid time. In the facts and circumstances of the case, this Court directs the authority concerned to find out as to on account of whose fault the delay was caused in making payment of the admitted dues and the said amount of interest and cost shall be realised from the erring personnel.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com