Mohan Ram Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Dec-23-2004

Reported in : [2005(1)JCR340(Jhr)]

Judge : S.J. Mukhopadhaya, A.C.J. and; Narendra Nath Tiwari, J.

Acts : Service Law

Appeal No. : L.P.A. No. 309 of 2003

Appellant : Mohan Ram

Respondent : State of Jharkhand and ors.

Advocate for Def. : G.P.-IV and; S. Srivastava, Adv.

Advocate for Pet/Ap. : Ram Kishore Parasad, Adv.

Disposition : Appeal allowed

Judgement :
ORDER

1. The appellant's unsatisfied claim for 18% per annum interest on delayed payment of pension and gratuity has culminated into this appeal. The appellant had retire from the Government service on 31.1.1998 on attaining age of superannuation. Admittedly the retiral dues were paid to him in the month of July 2001 i.e. after the delay of more than three years. According to the appellant, the

Pension Payment Order (P.P.O.) dated 16.2.1999 was issued by the Accountant General, Bihar with a condition of recovery of the amount of pay and allowances of certain period from the appellant which according to him were legally paid to him. The appellant immediately protested against the said condition of recovery by making representation against the said pension payment order. Against the said P.P.O. the petitioner had filed a writ application being C.W.J.C. No. 521/2000 before the Patna High Court. The writ petition was disposed of by order dated 5.2.2001 with direction to the respondents to hear the petitioner and pass speaking order. The appellant then filed representation before the Accountant General, Bihar which was considered and revised P.P.O. was issued on 9.7.2001 and the appellant's pension and gratuity were paid. The appellant thereafter claimed 18% per annum interest on the delayed payment of his retiral benefit which was not heeded upon. The appellant then filed W.P.(S) No. 2676/2002 seeking direction to the respondents to pay interest on the delayed payment of his retiral dues. The respondents contested the appellant's claim contending that there was no fault on the part of the respondent and the petitioner had himself challenged the P.P.O. and did not draw the payment on that basis. The learned Single Judge accepting the respondent's contention dismissed the claim of the appellant on the ground that the delay in releasing the retiral due (sic) deliberate from the side of the respondents and the delay was under unforeseen circumstance. The said order of the learned Single Judge is under challenged in this appeal.

2. We have heard Mr. Ram Kishore Prasad, learned counsel appearing on behalf of the appellant and Mr. S. Srivastava, learned counsel appearing on behalf of the Accountant General as also the learned G.P.-IV appearing on behalf of the Staterespondents. It is an admitted fact that the petitioner retired from Government service on 31.1.1998 and one Pension Payment Order (P.P.O.) was issued by the Accountant General dated 16.2.1999 wherein there was a condition of recovery of the certain amount paid to the appellant towards pay and allowances which according to him was legally paid. It is admitted that the appellant protested against the same and ultimately filed a writ application C.W.J.C. No. 521/2000 and on the direction passed in the said writ application, the Accountant General, Bihar considered the objection and issued a revised P.P.O. dated 29.7.2001 revalidating

the same order but without any condition of recovery from the appellant.

3. From the said admitted position, it is evident that earlier P.P..O. issued in the year 1999 was wrong and improper. The appellant was not obliged to accept the said wrong Pension Payment. Order and his refusal can not be said to be unjustified. The appellant had to suffer due to the said impugned Pension Payment Order which was admittedly corrected after a long delay, when a direction was issued in C.W.J.C. No. 521/2000. The appellant was thus deprived of his due retiral benefits for years together and he had to suffer loss and harassment for the fault on the part of the respondents. The State Government has issued circulars from time to time providing reliefs to the retired Government servant and making provisions for payment of compensatory interest on delayed payments of pension and gratuity. One such circular was issued as far back as in the year 1981 by Memo No. P.P.O. 2/1/16/79/3/155, dated 7.11.1981, which provides that interest shall be allowed on delayed payment of all kinds of pension and D.C.R. gratuity at the rate of 5% per annum for the period beyond three months after pension/D.C.R. gratuity becomes due and shall be payable till the end of the preceding month in which the payment of final pension and gratuity begins and on the payment of D.C.R/ Gratuity is actually made. In view of the above circular, the appellant is at least entitled to get interest at the rate of 5% per annum with effect from 1.4.1999 i.e. after 90 days of his retirement on 31.1.1998 till the preceding month of the actual payment of the said retiral dues to the appellant.

4. The learned Single Judge has not taken into consideration the said circumstances and the circular of the Government while dismissing the writ application of the appellant. Admitted correction of the Pension Payment Order goes to prove that the fault was on the part of the respondents and for that the appellant cannot be made to suffer.

5. We, therefore, allow this, appeal, set aside the impugned order dated 6.3.2003 passed in W.P.(S) No. 2673/2002. We hold that according to the Government circular the appellant is at least entitled for interest @ 5% per annum on the delayed payment of his retiral dues. We, therefore, direct the respondents to pay to the appellant simple interest at the rate of 5% per annum from 1.4.1999 till the

preceding month of the actual payment of the amount of pension and gratuity to the appellant within a period of three months. Since the appellant is a retired employee and he had to suffer loss and harassment for the fault of the respondents, this appeal is allowed with cost of Rs. 5,000/- to be paid by the respondents to the appellant within the same period, aforesaid.

S.J. Mukhopadhaya, A.C.J.

6. I agree.