
(2003) 09 PAT CK 0101

Patna High Court

Case No: C.W.J.C. No. 5736 of 2003

Surendra Narayan Jha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Sept. 1, 2003

Acts Referred:

- Bihar Pension Rules, 1950 - Rule 101, 135

Citation: (2004) 1 PLJR 50

Hon'ble Judges: Radha Mohan Prasad, J

Bench: Single Bench

Advocate: Vivekanand Pd. Singh, for the Appellant; V.N. Sinha and Anil Kumar Roy for State and J.P. Karn, for the Accountant General, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Radha Mohan Prasad, J.

In this writ petition, the Petitioner, who resigned from the service on 1.12.1987 while holding the post of Assistant Town Planner (Architecture) under the State Government, is aggrieved on account of non-release of his retiral benefits, besides other dues such as arrears of salary from 1.4.1986 to 30.11.1987, amount of deputation allowance and the amount on account of revision of pay etc.

2. One of the important questions for consideration is whether in the case of resignation, the Petitioner can claim for grant of pension in view of the provisions contained under Rules 101 and 135 of the Bihar Pension Rules.

3. However, it appears that the matter is quite old and thus requires thorough examination by the departmental head at the first instance. It seems that the Petitioner filed several representations before the Secretary, Urban Development Department, but the same were not disposed of and the claim of the Petitioner for payment of the aforementioned dues still remains.

4. Having regard to the facts and circumstances, this Court considers it expedient to dispose of the writ petition with the direction that the Petitioner may file a detailed representation with respect to entire claim under different heads before the Secretary, Urban Development Department, Government of Bihar, Patna (Respondent No. 2), which, it filed within two weeks, shall be examined and disposed of item-wise by a reasoned order by Respondent No. 2 within four weeks. The Respondent No. 2 shall also ensure issuance of sanction order/payment, for which no authority from the Accountant General is required, within the said time, failing which he shall be liable to pay a cost of Rs. 2,000/- (two thousand) from his pocket to the Petitioner and the Petitioner will be at liberty to file two-page affidavit for revival and for taking appropriate action.

5. Further, this Court makes it clear that on the question of grant of pension in the case of resignation, another matter has been heard and the order has been reserved. As such, the case of the Petitioner may be decided by the Secretary (Respondent No. 2) on its own merit, but the question in regard to grant of pension as claimed shall be governed by the decision of this Court which the Petitioner can bring to the notice of the Secretary after the disposal of the said case.

6. The writ petition is, thus, disposed of.

Order dated 10.9.2003

7. This matter has been brought under the heading "To Be Mentioned" at the instance of the learned Counsel for the Petitioner, who states that reference of the case in which the order has been reserved has not been mentioned in the order dated 1.9.2003.

8. The reference of the said case is C.W.J.C. No. 1678 of 2003 in which the order is reserved on the question of grant of pension in the case of resignation.