

Krishna Prasad Sinha

Vs

State of Bihar and Others

Civil Miscellaneous Petitions Nos. 29038 and 29658 of 1981

(P. N. Bhagwati, A. N. Sen JJ)

19.07.1982.

ORDER

1. Mr Goburdhan has handed over to us a telegram received by him from the State Government stating that the relief granted to the petitioner by the High Court of Patna in the shape of payment of full pay from October 1957 to September 20, 1961 and subsistence allowance from September 21, 1961 to April 20, 1966 is being worked out and payment would be made to him shortly. The telegram does not state as to how soon the payment would be made.
2. Though the order for payment in favour of the petitioner was made about four years ago it is surprising that the payment due to the petitioner in respect of salary and subsistence allowance has not yet been made by the State Government. The salary due is for a period of almost four years and the subsistence allowance is also payable for a further period of five years and it is difficult to understand how the State Government could so callous as not to make this payment to the petitioner even though he was entitled to the same under the order made by the High Court. We would, therefore, direct the State Government to make payment of the amount of salary and subsistence allowance as per the order of the High Court peremptorily within three weeks from today, together with interest thereon at the rate of 12 per cent per annum from the date of the judgment of the High Court.
3. So far as pension payable to the petitioner is concerned, this Court by an Order made on December 15, 1978 directed, with the consent of the State of Bihar given by the then learned standing counsel appearing on behalf of the State, that pension will be paid by the State of Bihar to the petitioner as due from the date when the impugned dismissal order was passed. This was, in fact, the basis on which the order was passed by this Court dismissing the special leave petition. Though this Order was made as far back as December 15, 1978, it is highly regrettable that the direction given in the Order should not have been complied with by the State Government and it is all the more regrettable that in the telegram sent by the State Government to Mr Goburdhan the State Government seems to be disputing its liability to pay pension to the petitioner. The plea put forth by the State Government is that no pension is payable to the petitioner because of Rules 46 and 101-A of the Bihar Pension Rules. It may be that if the liability for pension had been disputed by the State Government at the time when this Court made the Order dated December 15, 1978, the Court might have accepted the plea of the State Government after hearing arguments but this liability was not disputed by the State Government and, in fact, it was agreed by the then learned standing counsel appearing on behalf of the State Government that pension due from the date when the impugned dismissal order was passed would be paid to him. When this Court used the word "due", it clearly did not intend that the pension would be paid only if due according to the Bihar Pension Rules. The word "due" was used with a view to indicate the date from which the pension would be paid and this

becomes amply clear when we notice that the then learned standing counsel for the State of Bihar in fact agreed that the State would make payment of the amount of the pension. Where was the need for the learned standing counsel for the State of Bihar to agree to payment of pension from the date of the impugned order of dismissal, if pension was to be paid only of due according to the Bihar Pension Rules. If it was due according to the Bihar Pension Rules; it would have to be paid by the State Government irrespective of whether the learned standing counsel for the State of Bihar agreed or not : his agreement would be totally irrelevant and unnecessary.

4. We, therefore, direct the State Government to pay the arrears of pension due to the petitioner from the date when the impugned dismissal order was passed up to the date of this order within four weeks from today and in future the amount of pension as and when due from month to month will be paid on or before the fifth day of each succeeding month, subject, of course, to any formalities which may be required to be followed for the purpose of recovering pension.

5. This order for payment of salary, subsistence allowance and pension shall be carried out by the State Government peremptorily and if there is any default in making payment of the same, the petitioner will be at liberty to bring the default to the notice of this Court by making an application.

6. In view of these directions given by us, there will be no further order on the application for contempt.

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