

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No. 208 of 1996

Date of order 29-6-1998

Ramjit Prasad

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Applicant

-versus-

1. The Union of India through the Accountant General, Bihar, Patna.
2. The State of Bihar through the Commissioner-cum-Secretary to the Govt., Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna.

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Respondents

CORAM : Hon'ble Shri L.R.K. Prasad, Member (A).

Counsel for the applicant .. Shri R.K. Sinha

Counsel for the respondents .. Shri Lalit Kishore.  
Shri B.N. Yadav.

ORDER

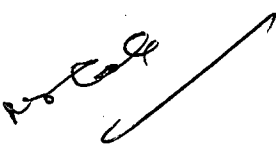
Hon'ble Shri L.R.K. Prasad, Member (A) :-

The applicant has filed this application for issuance of a direction on the respondents to sanction full pension and amount of gratuity and leave encashment benefit admissible to the applicant considering his satisfactory service rendered under the Government extending to 34 years one month and 19 days and to pay the aforesaid legal dues with interest.

2. The facts of the case is that the applicant was appointed as Deputy Collector in Bihar Civil Service (Executive Branch) and joined on 12th December, 1960. He was promoted to the Indian Administrative Service (IAS) vide GDI notification No.F.14015/42/88-AIS(I) (A) dated 17th

May, 1989. On 31.1.1995, the applicant retired from IAS, while serving as Additional Secretary to the State Govt. in the Revenue and L.R. Department. On 15.5.1995, the applicant applied for pension in Form-A which was forwarded to the Secretary, Personnel and Administrative Reforms Department by Revenue and L.R. Department on 17.5.1995 (Annexure- 1). At the time of retirement the basic pay of the applicant was Rs.4850 (Annexure-3). The applicant has claimed that he has to his credit 240 days of earned leave at the time of retirement. It has been stated by the applicant that neither <sup>any</sup> Govt. dues was outstanding against him nor any departmental proceeding pending against him. He has, however, alleged that inspite of aforesaid position, the applicant has not been paid his pension, gratuity and admissible leave encashment by the State Govt. of Bihar and this was illegal and causing financial hardship to the applicant.

3. Written statement has been filed on 18.9.1997 on behalf of respondent no.2, i.e. the State of Bihar through the Commissioner-cum-Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar. The respondent has pointed out that certain charges of irregularities in the process of issuing licences of fire arms as well as violating the provision of reservation in the appointment had been reported against the applicant, when he was posted as District Magistrate, Vaishali. The charges were enquired into by the Divisional Commissioner, Muzaffarpur and it was found incorrect. So the Divisional Commissioner recommended for filing of the charges levelled against the applicant, which was under consideration of the Government. It is further stated that keeping in view the above fact, the State Government has already sanctioned applicant's full



leave encashment benefit vide letter dated 27.5.1996 (Annexure R-I). The respondent has submitted that full gratuity benefit as well as 90% ad hoc pension order has already been sanctioned vide order dated 10.4.1996 (Annexure-II). The respondent has assured that final pension order would be issued as soon as a decision is taken by the State Government on the charges mentioned earlier. In view of the above, the respondent has denied the allegations of mala fide made by the applicant against the State Government.

4. Through rejoinder to the written statement, the applicant has stated that he was asked to explain certain appointments made to the post of Jansewak and Lipiks and arms licenses granted by him as Collector and District Magistrate, Vaishali. He had submitted his explanation on 23rd November, 1991. The Divisional Commissioner had conducted necessary enquiries against the above allegations and sent a detailed report to the Department of Personnel and Administrative Reforms vide his letter dated 5.5.1995 (Annexure-8), exonerating the applicant with the observation that no irregularity was committed by the applicant in the matter of aforesaid appointments or grant of arms license. He had recommended closure of the case. The applicant has admitted that respondents have sanctioned 90% pension and full amount of gratuity to him vide their letter No.3728 dated 10.4.1996 (after 13 months of his retirement). He has also admitted that he has been sanctioned cash benefit equivalent of pay for 240 days of admissible earned leave vide State Government's letter No.5456 dated 27.5.1995. The applicant has reiterated that as no departmental proceeding was pending against him, the respondents cannot withhold 10% of the final pension. The applicant has also

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stated that respondent no.2 is barred by rule 9(3) of Civil Service (Pension) Rules, 1972, from instituting any departmental proceedings against the applicant in respect of allegations referred to in para 4 of the written statement. In support of his claim for release of balance amount of pension, the applicant has cited the ruling of the Apex Court in the case of D.S. Nakara and others vs. Union of India (1983 SC (L&S) 145).

5. I have heard the learned counsels for the parties and perused the materials on record. From the analysis of the case, it becomes clear that the applicant has already been paid cash benefit equivalent of pay for 240 days of earned leave, full amount of gratuity and 90 per cent of pension. The release of only 10% of the pension is pending with the State Government. Therefore, the relief sought by the applicant in respect of leave encashment benefit, gratuity payment and major portion of pension release have already materialised. The applicant has not mentioned specifically the percentage of interest, which he intended to claim along with the legal dues. As the sanction relating to most of the items have been issued and no specific interest amount has been claimed, his prayer for interest claim cannot be conceded at this stage.

In the case of D. S. Nakara and others vs. U.O.I. (Supra), the Hon'ble Apex Court has held that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer, nor an ex gratia payment. It is a payment for the past service rendered. It is a social welfare measure rendering socio-economic justice to those who in the hey-day of their life ceaselessly toiled for the employer on an assurance that in their old age they would not be left in lurch. Pension as a retirement benefit is in consonance with and furtherance of the goals of the Constitution. The most

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practical raison d'etre for pension is the inability to provide for oneself due to old age. It creates a vested right and is governed by the statutory rules such as the Central Civil Services (Pension) Rules which are enacted in exercise of power conferred by Articles 309 and 148(5) of the Constitution.

6. It is true that if the pensionary benefits are not given to the Government servants immediately after his retirement, it causes financial hardship to them. However, there could be cases where the payment of pensionary benefits may get delayed due to departmental proceedings etc. In the instant case, there were certain charges of irregularities in the process of issuing licenses of fire arms as well as violating the provision of reservation in the appointments against the applicant when he was posted as Collector and District Magistrate, Vaishali. The charges were enquired into by the Divisional Commissioner, Muzaffarpur and were found incorrect. So the Divisional Commissioner recommended filing of the charges levelled against the applicant. In this regard, he sent a detailed report to the Department of Personnel and Administrative Reforms on 5.5.1995 (Annexure-8). Even though the Divisional Commissioner had exonerated the applicant of the charges levelled against him on 5.5.1995, the respondent no.2 in the written statement had stated that this matter was under consideration of the Government. He has also stated that keeping in view this fact, the State Govt. had already sanctioned full leave encashment benefit, full gratuity benefit as well as 90% ad hoc pension to the applicant. It is not clear as to why consideration of such matter should take such a long time. The pensionary benefits should be paid to the Government servant in accordance with law in time, so as to mitigate any financial hardship to the Government servants. There is nothing on record to show that any

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departmental proceeding is pending against the applicant.

7. As already pointed out above, the respondent no.2 has stated that report including recommendation of the Divisional Commissioner in respect of the charges levelled against the applicant while working as Collector and District Magistrate, Vaishali, is under consideration of the Government. It appears from Annexure-8 that the report was submitted to the Commissioner and Secretary, Department of Personnel and Administrative Reforms, Government of Bihar by the Divisional Commissioner, Muzaffarpur, in May, 1995. The respondent concerned is directed to take a final decision on the report and recommendation of the Divisional Commissioner, Muzaffarpur within a period of one month from the date of receipt of this order. Thereafter, the concerned respondent should take steps for the release of balance amount of pension <sup>to the applicant</sup> in accordance with law within two months. With the aforesaid order, the case is disposed of with no order as to the costs.

  
(L.R.K. Prasad)  
Member (A)