

Supreme Court of India

State Of Bihar vs Narasimha Sundram on 28 January, 1993

Equivalent citations: AIR 1994 SC 599, 1994 LabLC 462, (1994) ILLJ 67 SC, 1994 Supp (3) SCC 705

Bench: L M I., N Kasliwal, . A Anand

ORDER

1. Heard learned Counsel for the parties. Special leave is granted.

2. The respondent retired as an Executive Engineer under the appellant-State. The case of the appellant is that the respondent had, on the basis of his true age to retire on 31st January, 1988 but he remained in service by playing fraud on the department. However, it is admitted that he served the department till 30th September, 1989. By a writ petition out of which the present appeal arises the respondent claimed his salary from February, 1988 to September, 1989. The respondent also complained that he was not being paid his post-retiral benefits. The High Court by the impugned judgment has allowed both the reliefs.

3. So far the question of payment of arrears of salary is concerned, we do not find any merit in the contention of learned Counsel for the appellant that the respondent can be refused his emoluments for the period in question as no proceedings were ever initiated for inquiry as to the alleged fraud played by the respondent on the department. It is not denied that the respondent worked till 30th September, 1989 and in that view we confirm that part of the impugned judgment which refers to the salary. The respondent should be paid his arrears of salary, if not already paid, within two months from today.

4. The second relief related to the payment of post-retiral benefits. Mr. M.L. Verma, learned senior counsel appearing in support of the appeal has contended that several criminal proceedings were under investigation against the respondent and serious charges had been levelled against him. It is further said that in view of the provisions of Rule 43(b) read with Rule 139 of the Bihar Pension Rules, the appellants-State is entitled to reduce the amount or deny pension to the respondent. The records before us indicate that certain proceedings under Rule 43(b) read with Rule 139 of the Bihar Pension Rules had been started against the respondent and an order was passed withholding fifty per cent of his pension. Mr. A.K. Sen, learned senior counsel for the respondent has contended that in view of the aforesaid order the appellant-State must be directed to pay fifty per cent of the pension without delay. The stand of the appellant-State is that there are further proceedings initiated against the respondent under the Bihar Pension Rules for reduction of the pension. He has relied upon the statements made in the two affidavits filed in this case to prove the same. It is, therefore, suggested that the appellant-State should not be forced to pay to the respondent fifty per cent of the pension immediately and should be allowed to withhold the same temporarily until final orders are passed in the pending proceedings. The affidavit referred to by the learned Counsel indicates that further proceedings under the Bihar Pension Rules had been initiated some time back and a show cause was also filed by the respondent. It is, therefore, desirable that whatever proceedings have been started against the respondent are disposed of finally expeditiously.

5. In the circumstances, we modify the directions of the High Court in the impugned judgment relating to the payment of benefits by permitting the appellant-State to delay the payment of pension for some time and dispose of the pending proceedings under the Bihar Pension Rules as expeditiously as possible but not later than six months from today and we further direct that in accordance with the final orders which are passed in the proceedings, the appellant-State shall immediately pay whatever benefits the respondent is found entitled to. We also make it clear that the respondent shall be entitled to challenge in accordance with law any order which is passed against him hereafter under the Rules. The appeal is disposed of. There will be no order as to costs.