

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S). No. 178 of 2023

Amod Kumar Das, son of late Hitendra Narayan Das, resident of Ma Chanchal Enclave, near St. Joseph's School, Srirampur, P.O. Daxinbahal, P.S. Jamtara, Dist. Jamtara, Jharkhand.

..... Petitioner

Versus

1. The State of Jharkhand through the Chief Secretary, Govt. of Jharkhand, Ranchi, Project Building, P.O. Dhurwa, P.S. Jagarnathpur, Dist. Ranchi.
2. The Secretary, Department of Schedule Tribe, Schedule Caste, Minority and Backward Class, Welfare Department, Govt. of Jharkhand, Ranchi, Project Building, P.O. Dhurwa, P.S. Jagarnathpur, Dist. Ranchi.
3. The Special Secretary to the Govt. of Jharkhand, Department of Schedule Tribe, Schedule Caste, Minority and Backward Class, Welfare Department, Govt. of Jharkhand, Ranchi, Project Building, P.O. Dhurwa, P.S. Jagarnathpur, Dist. Ranchi.
4. The Deputy Secretary, Department of Schedule Tribe, Schedule Caste, Minority and Backward Class, Welfare Department, Govt. of Jharkhand, Ranchi, Project Building, P.O. Dhurwa, P.S. Jagarnathpur, Dist. Ranchi.
5. The Deputy Commissioner, Jamtara, P.O. Jamtara, P.S. Jamtara, Dist. Jamtara.
6. The Project Director, I.T.D.A., Jamtara, P.O. Jamtara, P.S. Jamtara, Dist. Jamtara.
7. The District Welfare Officer, Jamtara, P.O. Jamtara, P.S. Jamtara, Dist. Jamtara.

..... Respondents

CORAM : HON'BLE DR. JUSTICE S.N. PATHAK

For the Petitioner : Mr. Ajay Kr. Pathak, Advocate

For the Respondents : Mr. Shubham Gautam, AC to AAG-V

17/ 28.11.2024 Heard the parties.

2. In the instant writ petition, petitioner is claiming retiral dues as well as benefits of MACP and Group Insurance, Leave Encashment, amount of CPF and Gratuity, etc.
3. The facts of the case lies in a narrow compass. Petitioner retired from the post of Clerk, ITDA, Jamtara on 31.01.2021 but till date not a

single farthing has been paid to the petitioner ever after lapse of more than 3 years.

4. Earlier the respondents were directed to file counter-affidavit but even after repeated directions and even imposition of cost of Rs.2500/- till date no affidavit has been filed.

5. This Court in case of **W.P.(S). No. 5816 of 2019 (Anand Prakash Narayan Vs. State of Jharkhand & Anr.)** has already directed the respondents to pay the admitted dues to the retired employee and it was clarified that a cost of Rs.50,000/- shall be imposed for making unnecessary delay in payment and same may be recovered from the erring Officials, who were responsible for not making payment of the retiral dues on time. Even the Chief Secretary of the State has issued notification to all the Departments regarding payment of retiral benefits without any delay but inspite of the same, the respondents are bent upon not making the admitted dues to the retiral employees in time. In the instant case it appears that petitioner has not received the admitted dues till date.

6. It has been held in plethora of judgments that retiral benefits are not to be paid at the sweet-will of the respondent-authorities. It is the right of an employee to receive retiral benefits in time. It has been held by the Hon'ble Apex Court in the case of **Deokinandan Prasad Vs. the State of Bihar and others** reported in **1971(2) SCC 330** that:

“33. Having due regard to the above decisions, we are of the opinion that the right of the petitioner to receive pension is property under Article 31(1) and by a mere executive order, the State had no power to withhold the same. Similarly, the said claim is also property under Article 19(1)(f) and it is not saved by sub-article (5) of Article 19. Therefore, it follows that the order, dated June 12, 1968, denying the petitioner right to receive pension affects the fundamental right of the petitioner under Article 19(1)(f) and 31(1) of the Constitution, and as such the writ petition under Article 32 is maintainable. It may be that the Pension act (Act 23 of 1871) there is a bar against a civil court entertaining any suit relating to the matters mentioned therein. That does not stand in the way of writ of

mandamus being issued to the State to properly consider the claim of the petitioner for payment of pension according to law.”

7. In the instant case since even admitted dues has not been paid, I hereby direct the respondents to pay the entire retiral benefits along with a cost of Rs.50,000/- subject to entitlement of the petitioner within a period of eight weeks from the date of receipt/ production of a copy of this order. Let it be made clear that if the amount is not paid within aforesaid period, the petitioner is at liberty to bring the same to the notice of the Court and thereafter, *suo motu* contempt shall be instituted against the erring Officials for wilfully and deliberately flouting the Court's order.

8. With the aforesaid observations and directions, the writ petition stands allowed.

(Dr. S.N. Pathak, J.)

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