

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/COMP.** 1000/11

Case of **RAM PAVITRA RAI** (through Panpatia Devi)

Complaint in this matter is about non-payment of retiral dues and in-service dues admissible to late Ram Pavitra Rai, a former Khalasi in Road Construction Department at Dehri-on-Sone. Applicant Panpatiya Devi is the wife of late Ram Pavitra Rai.

At the resumed hearing on 03.04.2012 the Commission was informed that all outstanding dues including gratuity and pension have been paid/credited in the account of the applicant. In the ordinary course the matter should have been closed but in view of the inordinate delay in finalisation and payment of the retiral dues it would be travesty of justice if the proceeding is quietly buried. Ram Pavitra Rai retired from service on 29.02.2000/01.03.2000 i.e. 12 years ago and it is quite disturbing that the claims remained un-finalised/unpaid so long. Apparently it was only on the intervention of the Commission that the authorities finalised the claims and made the payments – not before their admonition by it more than once.

The Commission wanted to know as to why it took so long to finalise the claims. It was stated that there was a dispute about the date of birth of Ram Pavitra Rai and he had in fact filed writ petition – CWJC No.16511 of 2003 – in the Patna High Court. The High Court finally accepted the Department's stand about his date of birth being 08.02.1942 as against his claim of 08.02.1947. Although not very relevant, it may be mentioned that Ram Pavitra Rai seems to have worked after the due date of superannuation. The High Court clarified that he should be paid salary for the service for the additional period.

It is true that the writ petition filed in 2003 remained pending for as long as six years but the Commission is of the view that notwithstanding the dispute, the authorities should have calculated and paid the retiral dues on the basis of the admitted date of birth – as far as the Department is concerned – treating him to have retired on 29.02.2011. Pendency of the claim and/or writ petition could be no ground or justification to withhold the retiral benefits as per the Department's own stand. It goes without saying that in the event of success, his retiral benefits would have been worked/revised as if he retired on 28.02.2005. The Commission is of the view that for the delay in finalisation and other retiral benefits the applicant should be compensated.

It is relevant to mention that Ram Pavitra Rai was suffering from cancer but due to paucity of money he could not get proper medical treatment which apparently hastened his imminent death and aggravated his physical and mental pain. Perhaps, had pension etc. been paid on time, the end part of his life would have been less uncomfortable. In fact, not only he but his whole family suffered hardships, harassment and pain.

In course of hearing on the earlier occasion, the applicant's Advocate referred to the dilly-dallyings on the part of the officials of the Department who kept postponing the matter, at the same time giving false assurances that payment would be made within a week or so. But even as months and years passed, no payment was made. The action – or the lack of it – on the part of the officials of the Department clearly resulted in violation of human rights of Ram Pavitra Rai and members of his family. Albeit inadequate, monetary compensation can somewhat give solace to the bereaved family. The Commission is accordingly of the view that the facts of the case warrant grant of monetary compensation to the applicant.

It may not be out of place to mention that observations to the above effect were made in the previous orders and copy thereof was sent to the Principal Secretary, Road Construction Department for the Department's response, but there is no response. Apparently, the Department does not want to contest the matter.

In the facts and circumstances, the Commission would quantify compensation at Rs.50,000 (rupees fifty thousand) which in its opinion would serve the cause of justice.

The Commission would accordingly direct the Principal Secretary, Road Construction Department to pay sum of rupees fifty thousand as compensation to applicant Panpatiya Devi within six weeks and submit compliance report to that effect. It is open to the Department to identify the officials responsible for the delay and recover the amount from their salary in accordance with law.

Let copy of this order be sent to Principal Secretary, Road Construction Department as well as the applicant for information and compliance, as the case may be.

Date: 03.04.2012

Justice S.N. Jha
Chairperson