

File No.359/12

The matter was taken up in presence of applicant Sri Jagjit Singh and Deputy General Manager (HR/Adm.) Sri Prabhat Kumar who appeared with Advocate Sri Ajay Kumar Gautam on behalf of Bihar State Power (Holding) Company.

Applicant approached this Commission complaining of non-finalisation of his claim for pension. On notice by the Commission, the then Bihar State Electricity Board – now, Bihar State Power (Holding) Company Ltd – submitted an interim report and finally sanctioned pension but with effect from the date of the order viz. 12.6.2012. The complaint as of now is whether the applicant is entitled to pension with retrospective effect.

It may be mentioned here that applicant joined the service of the then Bihar State Electricity Board in November 1968. His resignation on the post of Assistant Executive Engineer was accepted with effect from 8.2.1982 i.e. after 13 years and three months' of service. The case of the applicant is that he submitted application for pension on 10.9.1987 and he is entitled to pension from that date. The case of the Board/Company is that the applicant's claim is quite old and the relevant records are not available, and in the circumstances he was allowed pension from the date of the order in terms of rule 210 of the Bihar Pension Rules which are applicable mutatis mutandis to the employees of the Board.

In its order dated 14.6.2013 the Commission observed as follows and fixed this matter for hearing in presence of the Secretary and that is how Sri Prabhat Kumar, Deputy General Manager (HR/Adm.) appeared and the matter was heard today:-

“The Commission is prima facie of the view that that Bihar State Electricity Board (predecessor-in-interest of the Bihar State Power (Holding) Company) having sanctioned pension, the plea that the claim is 30 years old or that the records are not available is not relevant. If it is true that the applicant had submitted application for pension on 10.9.1987 – a claim not disputed by the Board/Company, they are required to explain as to why the claim/application was not processed and acted upon earlier. Surely, they cannot take advantage of their own lapse or fault. If the blame lay with the Board, the applicant cannot be made to suffer. So far as rule 210 is concerned, if any special order is required, the Board/Company can make such order.”

In course of hearing Sri Prabhat Kumar reiterated the stand of the Board/Company. He stated that even if it is assumed that the applicant submitted application for pension on 10.9.1987, he did not pursue the claim. Applicant stated – referring to reminder notices/application – that he had sent reminders to the Board's Secretary from time to time but nothing happened. He pointed out that the Board acting on similar application submitted around same time paid him provident fund dues by cheque no.6999115 dated 27.1.1988 but sat over his claim for pension despite reminders.

As observed in the earlier order dated 14.6.2013 (supra), having sanctioned pension to the applicant the plea that the claim is 30 years old or that the records are not available does not lie in the mouth of the Board/Company.

Once the Board/Company accepted the fact that the applicant did submit application for pension they are required to explain as to what steps, if any, were taken and why pension was not sanctioned then. In the absence of any satisfactory explanation, they cannot deny pension from the date of the application. Surely, they cannot claim advantage of their own fault or lapse.

The sheet anchor of the Board's/Company's case is rule 210 of the Bihar Pension Rules. On a plain reading it is clear that rule 210 has to be read along with rule 209, and a conjoint reading of the two rules makes it clear that pension is normally payable from the date on which the pensioner ceases to be the employee or from the date of his application whichever is later – the underlying object being to prevent unnecessary delay in submission of the application. However, even in cases where the person is granted pension long after his retirement, as per rule 210, retrospective effect can be given in special circumstances on the orders of the Government (read, Board/Company).

Sri Prabhat Kumar fairly stated that in the instant case, pension was sanctioned by the Secretary being the sanctioning authority and the matter was never laid before the Board and that having regard to provisions of rule 210 of the Pension Rules the applicant's case for pension with retrospective effect would be laid before – now – the Bihar State Power (Holding) Company. In view of the fair stand on behalf of the Company, the Commission would not like to pursue the matter further. The Commission hopes that the applicant's claim will receive fair consideration and while considering the same, the attending facts and circumstances – as briefly indicated above – will be taken into consideration.

Before parting with the file, it may be clarified that the Commission entertained the complaint being of the view that non-payment or less payment of pension affects one's livelihood and therefore involves human rights issues.

The file is closed.

Copy of this order may be sent to the applicant and Secretary, Bihar State Power (Holding) Company Ltd. Vidyut Bhawan, Patna.

Date: 08.07.2013

Justice S.N. Jha
Chairperson