IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4884 of 2015

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Yogendra Narayan Chaudhary, Son of Late Sahdeo Prasad Chaudhary, (a retired promoted Prakhand Panchayat Raj Officer Piparia) under Block Development Officer, Piparia Block Lakhisarai. Resident of Village - Kamargama, P.O.- Lakhanpur, Via - Asarganj, P.S.- Tarapur, District - Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj, Department Government of Bihar, Patna.
3. The Accountant General Bihar, Patna.
4. The Collector, Lakhisarai.
5. The District Panchayati Raj Officer, Lakhisarai.
6. The Block Development Officer, Piparia, Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh, Advocate.

For the Respondent/s : Mr. Dr. Anshuman, SC 14

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

4 07-07-2015 Heard learned counsel for the parties.

2. Having regard to the fact that the prayer of the petitioner in this writ application is both for payment of retirement benefit as well as certain in-service benefits such as fixation of pay in view of the report of the pay revision committee, and also grant of ACP, this Court must clarify that this writ application having been filed as a case of retirement benefit, the petitioner cannot raise any grievance as with regard to grant of revised pay scale of the 6th Pay Revision Committee or the benefit of ACP. Such issue, therefore, has to be raised by the petitioner before the

competent authority/court.

3. Reverting back to the relief of post retirement benefit, this Court would find that the respondents claim to have paid a sum of Rs. 3,27,954/- on the head of Gratuity, Rs. 1,98,760/- on the head of Leave salary and Rs. 1,24,000/- as the amount of Group Insurance, which is said to have been also deposited in the bank account of the petitioner with the State Bank of India bearing A/c No. 11419294182 and 11373364188.

4. To that extent, it will be also relevant to quote paragraph 7 and 8 of the counter affidavit, which reads as under:

> *"7. That the statement made in paragraph no. 11 of the writ petition it is humbly submitted that the respondent no. 6 has already paid an amount of Rs. 3,27,954/- as Gratuity, Rs. 1,98,760/- as Leave salary and Rs. 1,24,000/- as Group Insurance through his State Bank of India A/C No. 11419294182 and 11373364188.*
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> *So far as petitioner's claim of ACP benefit is concerned, it is worth to mention here that the petitioner joined the District of Lakhisarai after getting the regular promotion as Block Panchayati Raj Officer from the post of Panchayat Sachiv. He cannot claim ACP in retrospective effect from this District as he joined here after promotion only.*
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> *8. That with regard to the statement made in paragraph no. 12 of the writ petition it is humbly submitted that the petitioner served in the district of Lakhisarai for a very short period i.e. from 01.08.2009 to 31.12.2009 and major part of his services were in other Districts, as such the respondent no. 06 does not have the details of the GPF contribution deductions made in those Districts. He has already written letters to various offices vide his letter no. 449 dated 29.12.2009, 829 dated 08.12.2011 and 359A dated*

16.05.2015 asking the details of his GPF Contribution deductions from his previous places of postings."

5. From the reading of the counter affidavit, there is no explanation with regard to payment of monthly pension as also the amount of provident fund. As noted above, in respect of provident fund, the respondent no. 6 has taken a stand that since the petitioner's service in the district of Lakhisarai was only for a very limited period of few months and the details of deductions made on the head of GPF of the petitioner will have to be obtained from the said district, this Court would give a period of three months to ensure that the entire amount of GPF, as found admissible and payable to the petitioner, must be paid to the petitioner with statutory up-to-date interest.

6. This Court has not been made aware as to whether the petitioner's pension and Gratuity has been finally authorized by the Accountant General and, therefore, this Court would direct the respondent no. 6 to ensure that if the amount of pension and Gratuity has been finally sanctioned for authorization by the Accountant General, must be taken so that the petitioner's claim for pension and Gratuity, as authorized by the office of the Accountant General, is finalized within the same period of three months.

7. It goes without saying that the petitioner has retired from service on 31.12.2009 and, therefore, he will be entitled for payment of interest on the delayed payment of retirement benefit on the pension and Gratuity, as fixed by the State Government in its circular @ 5% per annum from the date of entitlement to the date of actual payment.

(Mihir Kumar Jha, J)

Sujit/-

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