

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.1741 of 2014**

=====

Ram Chandra Sah Son Of Late Butan Sah Resident Of Village - Hajpurwa, Police Station - Chakmehsi, Post Office - Karua, Via Pusa, District - Samastipur

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Bihar
3. The Regional Deputy Director Of Education, Tirhut Commissioner, Muzaffarpur
4. The District Education Officer, East Champaran, Motihari
5. The Headmaster, Government Basic School, Siswania, Police Station - Ramgarhwa, District - East Champaran
6. The District Provident Fund Officer, East Champaran, Motihari

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. SATYA NARAYAN MISHRA

For the Respondent/s : Mr. SC-12 P.K.SINGH

=====

**CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA**

**ORAL JUDGMENT**

**Date: 24-03-2015**

Heard learned counsel for the parties as with regard to the following reliefs prayed in this writ application:-

- "(i) For a direction to the respondents to fix and pay the 100% pension and gratuity to the petitioner.
- (ii) For a direction to pay to the petitioner the amount of unutilized leave encashment.
- (iii) For a direction to the respondents to pay up to date interest upon the entire provident amount.
- (iv) For a further direction to the Respondents to pay to the petitioner penal interest on the entire dues amount from

the date it became due till the date of respective payments."

2. Pursuant to the earlier order of this Court dated 10.3.2015, Mr. Ram Nandan Prasad, D.E.O., East Champaran as well as Mr. Uma Shankar Prasad, Headmaster of the school have appeared in person.

3. Whatever explanations have come from them would go to show that it was the petitioner himself who was responsible for non-filing of the pension papers of the retirement benefit. The petitioner is said to have retired from service on 31.5.2007 and this writ application was filed on 21.1.2014 alleging that his pension and other retirement benefit has not been paid because the Headmaster of the school was not prepared to sign on the pension papers. The Headmasters who were in the office from the year 2007 onwards have neither been named nor the petitioner had ever tried to explain to this Court that as to when the present Headmaster, namely, Mr. Uma Shankar Prasad had joined the post of the Headmaster of the school, in question, from which the petitioner had retired.

4. The petitioner also had failed to explain this Court that he had in the year 2009 himself taken away the service book by filing an application dated 12.12.2009 for its being approved by the Finance Department. There being also a receiving of the service book by the



petitioner and the signature of the petitioner on either of the two documents i.e. the application and receipt being not denied by the petitioner who is also present, this Court will not be in a position to buy the rest of the defence of the petitioner that the contents of both the documents contained in Annexure-X, the application of the petitioner, was not in his writing and the signature thereon is of the petitioner is only genuine. The petitioner is a qualified teacher and is not expected to sign the blank paper and would handover to the Headmaster who, according to him, was harassing in not collecting and forwarding the pension papers.

5. This Court has also perused the reply of the rejoinder affidavit of the petitioner in paragraph nos. 6 & 7 and the same has to be rejected on the face of the record. This Court would fail to understand as to why the present Headmaster who has joined in the year 2015 will produce the document of the year 2009 if that was not submitted by the petitioner. Thus, this Court is satisfied that it is the petitioner who himself is responsible for delay in payment of his post retirement benefit.

6. Let it be noted that this Court at one point of time was seriously thinking for initiating a proceeding under Section 340 Cr.P.C. against the petitioner but, then, keeping in view that the petitioner is a retired government servant and in fact may have over

stepped in anxiety of getting certain payment including retirement benefit, would condone his act with a warning that in future he should be very careful in filing his affidavit before the court.

7. The District Education Officer has informed this Court that the petitioner was repeatedly asked to produce the service book or even the photocopy of the service book on the basis of which pension papers could be forwarded to the office of the Accountant General. He has also explained that ultimately 90% of the provisional pension, gratuity and leave encashment for the period of 150 days has been sanctioned and its payment also will be made to the petitioner.

8. In that view of the matter, this Court in presence of the petitioner, the Headmaster and the District Education Officer would direct the petitioner to immediately handover the duly filled up pension papers along with the photocopy of the service book within a period of fifteen days from today whereafter it will be the duty of the Headmaster of the school to forward them to the District Education Officer for its being verified and sent to the office of the Accountant General.

9. This Court hopes and believes that if the pension papers and other documents including the service book are found in order by the office of the Accountant General, the payment of full and final retirement benefit and the amount of provisional pension and gratuity

as well as amount of leave encashment also must be made to the petitioner within a period of three months from the date of forwarding of the pension papers by the office of the District Education Officer.

10. In the peculiar facts and circumstances of this case, the petitioner shall not be entitled for payment of any interest but the amount of retirement benefit as directed above must be paid to the petitioner within the aforesaid scheduled time.

11. With the aforementioned observation and direction, this application is disposed of.

12. The personal appearance of Mr. Ram Nandan Prasad, D.E.O., East Champaran and Mr. Uma Shankar Prasad, Headmaster of the Basic School, Siswania is hereby dispensed with.

**(Mihir Kumar Jha, J)**

Rishi/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|