

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5178 of 2015

=====

Lakhsman Prasad, son of Late Musfir shah, resident of Mohollah- Idgah Road, Gulzarbagh, P.S- Alamganj, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Urban Development Department, Nirman Bhawan, Patna.
2. The Secretary, Urban Development Department, Nirman Bhawan, Patna.
3. The Chief Executive Officer, Patna Municipal Corporation, Patna.
4. The Chief Executive Officer, Patna Municipal Corporation, Patna City Circle, Patna.
5. The Chief Account Officer, Patna Municipal Corporation, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Banke Bihari Singh, Adv
For the State : Mr. Ratnakar Ambastha Ac to GP-13
For the PMC : Mr. Ranjeet Kumar Pandey, Adv

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 21-04-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application is to direct the respondent-Patna Municipal Corporation to pay the petitioner arrears of retriial dues and up-to-date interest and cost. Such vague prayer was capable of being rejected at the threshold rather the petitioner has nowhere mentioned as to which period retriial dues has remained due, which has to be paid with up-to-date interest and cost



Learned counsel for the petitioner has however invited attention of this court towards the order dated 07.01.2004 passed in C.W.J.C No. 10367 of 2003, the order passed in the contempt petition being M.J.C 793 of 2005 to contend that arrears of pension and gratuity as also leave encashment in the revised scale was directed to be paid along with other employees as and when the fund for such purpose is released by the State Government. According to learned counsel for the petitioner, such fund has already been released but the petitioner has not been paid the arrears of pension, gratuity and leave encashment.

Learned counsel for the respondents on the other hand has submitted that the petitioner had retired from service on 31.08.2002 and his admissible amount of retirement benefit was paid in the month of January-2004 by way of payment of Rs. 55,248/- and Rs. 44,384/- on the head of provident fund, leave encashment and interim relief. He has also submitted



that the arrears of provident fund as per the direction of this Court in the order dated 07.05.2008 to the tune of Rs. 8,502/- was paid. He then has relied on an order of the Municipal Commissioner dated 22.11.2013 to explain that the arrears of revised pension, gratuity and leave encashment is subject matter of LPA No. 960 of 2007, wherein, stay has been granted as against the order of the learned Single Judge. According to him, the petitioner's case for payment of revised pension, gratuity and leave encashment can also be decided by the Patna Municipal Corporation after disposal of LPA No.960 of 2007.

In the considered opinion of this Court, the petitioner cannot expect singular treatment, inasmuch as, the Patna Municipal Corporation will always have to follow the same principle in making payment of arrears of revised pension, gratuity and leave encashment. Since, the matter is subjudiced and there is stay by Division Bench in LPA No. 960 of 2007, this Court

would find it difficult to issue any direction to the respondents to make payment of such amount to the petitioner in isolation. As a matter of fact, if the petitioner has a grievance of the non compliance of the order dated 07.05.2008 passed in M.J.C No.793 of 2005, his remedy was not by way of filing of fresh writ petition because if the petitioner feels that the last paragraph of the said order has been violated by the authorities of the Corporation, he had to again move in the contempt jurisdiction. The difficulty, according to this Court, for the petitioner is in that case was that he will have to name the other employees who according to him have been paid their revised pension, gratuity and leave encashment and therefore when the petitioner has failed to make out a case by even naming a single person the vague plea of discrimination also must fail.

That being so, this writ application is wholly ill advised and misconceived. It is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Ranjan/-

U			
---	--	--	--