

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2589 of 2012

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Biswanath Choudhary S/O Late Jhagru Choudhary Present Resident At
Mohalla- Rajapur, P.S.- Sri Krishnapuri, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary Rural Development
Department, Govt. Of Bihar, Patna
2. District Magistrate, Patna
3. The Deputy Development Commissioner, Patna District, Patna
4. The Director, District Rural Development Agency, Patna, Distt.- Patna
5. The Deputy Collector, Establishment, Patna, District - Patna
6. The Deputy Secretary Rural Development Department, Government Of
Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Mukesh Kumar Singh, Advocate
For D.R.D.A. : Mr. Nikesh Kumar
For the State : Mr. Biresh Kumar Sinha, A.C. to AAG-II

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL ORDER

10 28-09-2015 Heard learned counsel for the parties.

The petitioner has moved this Court for a direction to the
respondents to pay his retiral dues, including gratuity.

It appears that the petitioner was an employee under the
District Rural Development Agency, Patna and as per the stand of
the respondents he, not being a government servant, is not entitled
to gratuity. However, the leave encashment due to him has been
paid.

Learned counsel for the petitioner submits that various
persons under other District Rural Development Agency have

been paid gratuity also, whereas it is being denied to the petitioner.

Learned counsel for respondents No. 3 and 4 relies upon the supplementary counter affidavit and submits that the State Government has directed to all the Deputy Development Commissioners that the Agency is a registered society and the employees posted there are not government servants and thus pension/gratuity as well as A.C.P. benefits are not due to them.

In view of the aforesaid position, till the time, the petitioner gets a declaration in his favour that either he is a government servant or is entitled to gratuity under any Statute, no positive direction can be issued in his favour.

Accordingly, the writ petition stands disposed off.

However, the petitioner shall be at liberty to assail the stand of the State Government directing the Agency not to make payment of pension/gratuity and also grant of A.C.P. benefits to such persons including the petitioner or for a declaration to the effect that the petitioner is also entitled for gratuity under the Payment of Gratuity Act, 1972 before the appropriate forum in accordance with law.

V.P.Sinha/-

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(Ahsanuddin Amanullah, J)