

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4475 of 2015

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Ram Prasad Rai. S/o Late Yadu Rai. Resident of village - Dayalpur, P.O.-
Dayalpur, P.S.- Rajapakar, District - Vaishali.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Vaishali at Hajipur.
3. The District Panchayati Raj Officer, Vaishali at Hajipur.
4. The Sub Divisional Officer, Hajipur, Vaishali.
5. The Sub Divisional Officer, Mahua, Vaishali.
6. The Block Development Officer, Rajapakar, Vaishali.
7. The Block Development Officer, Mahua, Vaishali.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Satya Prakash Sinha

For the Respondent/s : Mr. Sc19-Ajay Behari Sinha

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 04-05-2015 Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application
reads as follows:

“Commanding the respondent authorities to pay the full pension and all the retiral benefits and due salary and benefits of ACP and other consequential benefit of the petitioner and to quash the entire departmental proceeding initiated against the petitioner since 2011 as he has retired from his service from the post of Panchayat Secretary on 31.12.2011 from Rajapakar Block, District Vaishali.”

3. Learned counsel for the petitioner in support of the
aforementioned prayer has submitted that though the petitioner
had retired on 31.12.2011 while holding the post of Panchayat
Secretary at Rajapakar Block, in the district of Vaishali but he has
not been paid any amount of retirement benefit till date.

4. This Court by an order dated 3.4.2014 had granted four weeks time to the respondents to file their counter affidavit but the learned counsel for the State has submitted that he has not received any instructions from the respondents.

5. In the considered opinion of this Court the petitioner on the date of retirement had not only stood placed under suspension but also facing criminal prosecution. This Court is not aware as to what result has been arrived either in the criminal proceeding and/or departmental proceeding. Even if such departmental proceeding/ criminal proceedings were initiated against the petitioner he ought to have been sanctioned at least the amount of provisional pension in terms of Rule 43(b) of the Bihar Pension Rules and the Government Circular dated 01.07.1981 issued therein laying down withholding of full and final pension on retirement benefit including pension and gratuity till conclusion of the departmental proceeding and/or criminal case by allowing payment of 90% of provisional pension.

6. In that view of the matter, this Court would direct the Collector of Vaishali District to ensure that not only an expeditious decision be taken with regard to pending criminal case and/or departmental proceeding and in the meantime also start making payment of arrears and current of the provisional pension in terms of Bihar Pension Rules and the orders issued by State

Government thereunder.

7. This Court will not be in a position to direct for payment of final pension primarily on account of there being no pleading that the petitioner had already submitted his pension papers as also account of pendency of the departmental proceeding and/or criminal proceeding for which he had remained under suspension till the date of his retirement.

8. If the respondents, however, find that the departmental proceeding and/or criminal proceeding against the petitioner is still pending, they would pass an appropriate order for payment of those retirement benefits which do not get adversely affected on account of pendency of the departmental proceeding and/or criminal proceeding. The petitioner, therefore, must be paid his amount of group insurance, provident fund with up-to-date statutory interest and provisional pension within a period of three months from the date of receipt of this order. The rest of the retirement benefit however will abide by the final out come of the pending criminal case and/or departmental proceeding said to be pending against him.

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

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(Mihir Kumar Jha, J)