

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6543 of 2011

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Param Hans Mishra S/O Late Babban Mishra At Anand Bhawan, Anand
Nagar, South Side Of New Water Tank, P.O. Siwan, District Siwan, Bihar.
..... Petitioner/s

Versus

1. The State Of Bihar.
 2. District Education Officer, Sri Jyoti Kumar D.E.O. Office, Near Indoor Stadium, P.O. And P.S. Siwan, District Siwan.
 3. Director, Human Resources Development Department Budh Marg, Patna.
 4. Deputy Secretary Human Resource Development Department, Budh Marg, Patna.
 5. Principal Secretary, Human Resources Development Department Budha Marg, Patna.
 6. Accountant General, Accountant General Building Patel Marg, Patna.
- Respondent/s
- =====

Appearance :

For the Petitioner/s Mr. Kaushal Kishore Mishra, Adv.
For the Respondent/s : Mr. Dhurandhar Pd. Choudhary, SC2
For the AG : Mr. Uday Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 18-02-2015 Heard learned counsel for the parties.

Having regard to the fact that this writ application, filed as a case of retirement benefit of the petitioner, has now become infructuous in view of paragraph no.5 of the supplementary counter affidavit which reads as follows:-

"5. *That it is an admitted fact that the petitioner was appointed on 01.11.1972 and retired on 30.09.2010 as Headmaster D.A.V., H.S.+Inter College, Siwan. It is stated that the petitioner's pension application was put up before the then D.E.O., Siwan on 29.11.2010. Thereupon the then D.E.O., Siwan vide letter no.-1829 dated 08.12.2010 sent petitioner's pension papers along with gratuity and commutation pension to the Deputy Secretary*

H.R.D., Bihar, Patna. Similarly the then D.E.O., Siwan also forwarded the petitioner's leave encashment for grant of sanction. These facts have already been put on record by way of counter affidavit filed earlier. It is humbly submitted that sanction for payment of said claims have already been given and the petitioner is getting the same. In fact the petitioner's grievance vis-à-vis payment of his retrial dues have already been redressed and this writ petition is liable to be dismissed."

this Court is not inclined to now go into the aspect as to whether such delay in payment of retirement benefit is attributable due to personal malafide of the then District Education Officer, Siwan.

If the petitioner is aggrieved on account of any personal action of Sri Jyoti Kumar, the then District Education Officer, Siwan, he will be at liberty to sue him by filing a civil suit where the issue can be gone into with the help of evidence to be led by both the parties.

With the aforementioned observation, this application is disposed of.

(Mihir Kumar Jha, J)

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