IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2502 of 2014

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Nagendra Prasad Lal S/O Sri Pramanand Lal Resident Of Village-Nadarihan, P.S.- Charpokhari, Dist- Bhojpur

.... Petitioner

Versus

1. The State Of Bihar Through District Magistrate Ara Bhojpur
2. The District Treasury Officer Ara Bhojpur
3. The Accounts Officer Ara, Bhojpur
4. The Anchal Adhikari (Circle Officer), Barhara, Anchal, P.S.- Barhara, Dist- Bhojpur
5. The Accountant General Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha

For the Respondent/s : Mr. Dinbandhu Singh

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

4 21-05-2015 Heard learned counsel for the parties.

The prayer of the petitioner when this writ application was filed on 29.1.2014 had read as follows:

> "Directing the respondents to pay retiral dues of petitioner such as provident fund gratuity, leave encashment, pension."

Learned counsel for the petitioner while making submission even today has asserted that no payment has been made to the petitioner on any of the heads for which this writ application was filed.

On the other hand, learned counsel for the respondents having filed the counter affidavit on 9th March, 2015 and a supplementary counter affidavit on 19th March, 2015 after service of copies of them on the learned counsel for the petitioner has sought to explain that the petitioner had a chequered service history. He was facing departmental proceeding and he had not deposited the amount in Arrah Treasury, whereafter he was dismissed from service. It has also been explained that subsequently the petitioner got reinstated in view of the order passed in appeal by the Divisional Commissioner and as such, when the petitioner had retired on 31.1.2013 his payment of pension was being made in Account No. 10720110029411 in UCO Bank, Arrah Branch. Not only that the respondents have also explained that the payment of gratuity as per the order of the Accountant General dated 28th August, 2014 was made. The respondents have further explained that the admissible leave encashment of only 72 days was found admissible and payable. It was only in respect of payment of G.P.F. that in the counter affidavit it was said that the calculation was to be made for which communications were made to Anchal Adhikari for collecting the details of deductions of contributory provident fund.

Thereafter in the supplementary counter affidavit it has been clearly asserted by Pratap Bhanu Kumar, posted as Senior Treasury Officer, Bhojpur that the petitioner's retiral benefit like gratuity, pension and commutation has already been made and the payment of regular pension and difference of gratuity has also been made through the same UCO Bank where the petitioner has an account.

Let it be noted that these facts categorically stated on affidavit by the respondents in the counter affidavit/ supplementary counter affidavit despite its being served on 9.3.2015 and 19.3.2015 have not been controverted by the petitioner till today.

In that view of the matter, this Court must hold that the submission of the learned counsel for the petitioner that nothing has been paid to the petitioner is a blatant false statement.

Having thus regard to the facts that the respondents have made payment, if the petitioner has any grievance of any of such amount being lesser than his expectation, it is always open for him to mould his relief but he cannot be allowed make fool of the respondent by insisting that nothing was paid to him, an aspect which has been clearly exposed by the Universities while explaining the facts in its counter affidavit and the supplementary counter affidavit.

That being so, this application must fail and is hereby dismissed.

(Mihir Kumar Jha, J)

surendra/-

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