

N THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6887 of 2014

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Kameshwar Pandey S/O Late Jatadhari Pandey Resident Of House No. 23,
Road No. 8/C, Rajeev Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Finance Department, Old Secretariat, Patna
4. The Secretary, Minor Water Resources Department, Vikas Bhawan, Patna
5. Project Coordinator, Tube Well Wing, Minor Water Resources Department, Viswesaraiya Bhawan, Patna
6. The Accountant General (A And E), Bihar, Bir Chand Patel Marg, Patna-1.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kuber Pathak, Adv
For the State : Mr. Ajay Bihari Sinha, Adv
For the A.G. Bihar : Mr. S.M. Ehtesham, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 30-06-2015 Heard learned counsel for the parties.

Having regard to the fact that the petitioner in view of pendency of departmental proceeding could not have been paid his full pension and gratuity, it was the duty of the authorities of the Minor Irrigation Department as well as the Office of the Accountant General to ensure that at least his 90 per cent provisional pension, as per Rule-43(b) of Bihar Pension Rules had to be paid. The petitioner in fact having retired in the month of December-2012, has not been paid a single farthing only



on the ground of pendency of a departmental proceeding. That, however, is not permissible and therefore, this Court would direct all the authorities to ensure that the entire arrears of provisional pension of the petitioner both arrear ever since January-2013 to January-2015 and current must be paid to him within a maximum period of one month from the date of receipt of this order. It is made clear that if any authority now delays the payment of provisional pension of the petitioner either arrears or current, he shall become liable to pay the interest @ 9 per cent per annum, on the entire amount of arrears. Since this order has been passed in presence of the learned counsel for the State and learned counsel for Accountant General, this Court hopes and believes that the petitioner will be paid his entire arrears and current pension within a period of one month, from today.

It is also made clear that it shall be no defence for the State Government or for the Accountant General that

there were certain procedural lapses on account of which the petitioner has not been paid provisional pension. In other words, it would be the duty of each of the respondents that the actual payment of provisional pension of the petitioner both arrear and current is made within a period of one month.

It is, also made clear that a departmental proceeding cannot be kept pending for an indefinite period and therefore, subject to the co-operation of the petitioner, the departmental proceeding must be brought to an end, preferably within a period of six months from the date of receipt of this order, whereafter the decision for full and final pension of the petitioner should be taken strictly on the outcome of the departmental proceeding.

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

(Mihir Kumar Jha, J)

Ranjan/-

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