

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5985 of 2015

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Satish Kumar Yadav son of Late Bauku Prasad Yadav Resident of Village-
Haji Subhan, P.O.- Purab Sarai, P.S.- Kotwali, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar , through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Government of Bihar, Patna.
3. The District Education Officer, Munger, District- Munger,
4. The District Treasury Officer, Munger, District- Munger.
5. The Head Master, Modal +2 High School Munger, District- Munger.
6. The Accountant General (A&E) , Bihar, Birchand Patel Marg , Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suman Kumar Mishra, Adv

For the Respondent/s : Mr. Ashok Kumar Keshri AAG-11

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 30-06-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application now remains confined for direction to the respondents for payment of final pension and gratuity.

Learned counsel for the petitioner has submitted that though the petitioner having retired on 28.02.2014, from the post of headmaster of Model High School, Munger has been paid his all other retirement benefits but his final pension and gratuity has not been paid as yet. Learned counsel for the petitioner in this regard



submits that there was a proposal for initiating departmental proceeding against him but till date such departmental proceeding has also not been initiated by way of framing of any memo of charge. To that extent, he also places reliance on the order of the District Education Officer, Munger dated 05.09.2014 addressed to the Director, Secondary Education as contained in Annexure-6 to this writ application.

This case was filed on 16.04.2015, and no counter affidavit has been filed in a period of two and a half months.

That being so, when learned counsel for the State also has got no instructions, this Court would deem it expedient in the ends of justice to direct the Director, Secondary Education to firstly examine as to whether the petitioner can be subjected to any departmental proceeding keeping in view the requirement of Rule-43(b) of Bihar Pension Rules laying down only an allegation of the gross misconduct or loss caused to the

Government exchequer to be the only two grounds for initiating a departmental proceeding after retirement of the Government servant.

The competent authority i.e. Director Secondary Education on examination of the charge against the petitioner if he finds that neither of the two parameters of gross misconduct or financial loss as prescribed in Bihar Pension Rules is fulfilled the Director, Secondary Education shall take immediate steps for sanctioning the amount of gratuity and pension to the petitioner. If on the other hand he finds that the petitioner is required to be proceeded in terms of Bihar Pension Rules, he shall direct for holding a departmental proceedings which must be concluded within a maximum period of nine months from the date of receipt of this order.

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

(Mihir Kumar Jha, J)

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