IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4226 of 2015

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Shiv Nandan Sah son of Late Nandu Sah, resident of Mohalla Mitan Ghat, Patna City, P.S. Khajekala, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Govt. of Bihar, Patna.
2. The Patna Municipal Corporation, through the Commissioner, Patna Municipal Corporation.
3. The Commissioner cum Chief Executive Officer, Patna Municipal Corporation, Patna.
4. The Chief Account Officer, Patna Municipal Corporation, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Chandram, Adv.
For the State : Mr. Avanindra Kumar Jha, AC to AAG-13
For the PMC : Mr. Ranjeet Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT
Date: 31-03-2015

Heard learned counsel for the parties.

Having regard to the prayer of the petitioner for payment of balance amount of retirement benefit and the fact that the petitioner's retirement benefit was paid pursuant to the direction of this Court in CWJC No. 11 of 2004, this Court would find it difficult to hold that whatever amount the petitioner has been claiming in his calculation sheet as contained in Annexure-2 to the writ application to the tune of Rs. 2,06,184/- is actually the admissible payable amount. As a matter of fact, the petitioner has calculated the entire dues of 2,06,184/- after deducting the amount of Rs. 72,965/- which has already been paid to him pursuant to the direction of this Court which infact was in addition to payment of Rs. 98,963/- already made to him earlier. Thus, the petitioner has already been paid a sum of Rs. 98,963 + 72,965/- and yet wants a direction from this Court to the respondent to make payment of Rs. 2,06,184/-. The whole basis of such claim of the petitioner is that he was entitled to get a salary of Rs. 5,088/- per month and in fact the entire calculation has been made in the connected calculation-sheet as contained in Annexure-2 on the basis of his salary of Rs. 5,088/- per month. There is however no supporting order to show that the petitioner till the date of his retirement i.e. 31.10.2003 was ever sanctioned the aforesaid amount of Rs. 5,088/- per month by way of his last salary.

In such a situation, while this Court is not inclined to allow the petitioner to reopen the whole history but, then, the respondent Patna Municipal Corporation must examine the claim of the petitioner once again limiting to the exercise of payment of admitted amount of retirement benefit as per the last salary paid to the petitioner. Let it be noted that there shall be no further revision of the salary and consequential retirement benefit of the petitioner if the same has not been revised in case of all the similarly situated employees of Corporation who had retired till 31.10.2003.

The claim of the petitioner therefore should be examined for payment of any balance amount of retirement benefit on this limited parameter and payment of any amount, if found admissible to the petitioner, be also made of-course after deducting the amount of payment already made to the petitioner. This exercise, however, must be completed by the authorities of the Corporation within a period of four 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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