

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3798 of 2015

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Sundar Kumar Bhomik , son of Late Sukumar B Bhomik Resident of C/o
Raju Gupta Madhedheri Enterprises Near Anapurna Hotel Daulta Ram
chowk Katihar.

.... Petitioner/s

Versus

1. The State of Bihar Through, The Principal Secretary Minor Irrigation
Department, Bihar, Patna.
2. The Chief Engineer (North) Tubewell Circle (Range) Muzaffarpur,
District - Muzaffarpur.
3. The Superintending Engineer, Tubewell Circle, Purnea.
4. The Executive Engineer , Tubewell Division, Purnea.
5. The Assistant Engineer, Tubewell Sub. Division, Kirha Dist Purnea.
6. The Sub. Divisional Officer Tubewell Division Korha District- Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh, Adv
For the Respondent/s : Mr. GP25- Mani Kant Mishra

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 24-03-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application can be bifurcated into two parts namely, seeking direction for payment of the commutation value of pension as also commanding the respondents to pay the arrears of salary of the petitioner for the period February-2012 to 08.03.2013.

With regard to latter part i.e. payment of salary this writ petition under the heading of retirement benefit



cannot be maintained. As a matter of fact, when the petitioner had filed his application on 15.09.2011, for voluntary retirement and the period of three months notice as per the provision of Rule-74 of Bihar Service Code will be deemed to have been complied on 15.12.2011, the petitioner will never be entitled for any amount of salary on account of his own prayer but then this Court would not like to finally decide this issue because if the petitioner can still prove that he had continued in service even after the period of 90 days notice and was continuing to discharge his duty, he may come out with the claim of payment of salary on production of evidence before appropriate forum/Court.

Reverting back to the only prayer which can be entertained in this writ application regarding commutation of pension, this Court would proceed that it was the petitioner who has been sanctioned and paid the amount of pension and he would also be entitled for commutation of pension unless there be any reason for

him in person being not allowed for such commutation of pension. In that view of the matter, the respondent no. 2, the Chief Engineer, North Tubewell Section, Minor Irrigation Department, Muzaffarpur is directed to examine the claim of the petitioner for grant of commutation value of the pension and if the petitioner is found entitled for the same, the same also should be directed to be paid in his favour within a period of four months from the date of receipt of this order by the respondent no. 2, the Chief Engineer, North Tubewell Section, Minor Irrigation Department, Muzaffarpur.

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

(Mihir Kumar Jha, J)

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