

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No 1831 of 2009

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Ram Chandra Prasad, son of late Parmeshwar Prasad, resident of Mohalla & PS –
Khajanchi Haat, Purnea, at present resident of 35, Gandhi Nagar, Boring Road, PS
– Krishnapuri, District - Patna

.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 Shri Afzal Amanullah, Secretary –cum- Commissioner, Department of Home
(Police), Government of Bihar, Patna
- 3 Shri D N Gautam, Director General of Police, Bihar, Patna
- 4 Shri A K Sinha, Inspector General of Police (Admn), Bihar, Patna
- 5 Shri Amit Jain, Superintendent of Police, Siwan
- 6 District Provident Fund Officer, Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr ABHINAV SRIVASTAVA, Advocate

For the State : Ms Ratna Kumari

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 24-11-2015

The petitioner had retired as Deputy Superintendent of Police in April, 2001. Late, in the year 2002, State decided to initiate a departmental proceeding against him. In view of this decision, his retiral dues were withheld in totality. Sometime later, the matter was scrutinized by the DGP, Bihar who recommended that the proceedings should be dropped. Notwithstanding that, neither the proceedings were making any headway nor were the retiral dues being paid, hence the writ petition was filed. The writ petition was disposed of in the year, 2008 with twin directions. Firstly, that the departmental proceedings should be concluded by December, 2008

failing which, in January 2009, the entire retiral dues had to be paid to the petitioner without any deduction. The order was clear and simple. Notwithstanding the aforesaid, State carried on with the departmental proceedings and in the year 2011, passed the order of forfeiture of pensionary benefits to the extent of 25% with effect from 21.12.2010.

2 This application was filed by the petitioner pointing out that the steps taken by the State were contemptuous. Show cause has been filed in which, apart from the general defence of delay by State, there is no other substantial defence. The order of the Writ Court that the departmental proceedings be concluded by December, 2008 attained finality. What also attained finality was that if it is not concluded, the entire retiral dues had to be paid in January, 2009. The meaning was clear that if the departmental proceedings are not concluded, they would be deemed to be closed and dropped and payments to be made. This order attained finality. It was neither moved nor set aside in any manner.

3 Thus, the action of the State in continuing with the departmental proceeding was clearly contemptuous. Similarly, the order depriving the petitioner of 25% pensionary benefits, as passed on 21.12.2010, is also in teeth of the order of this Court and cannot, thus, be sustained. Both these actions are set aside being contrary to the judgment of this Court and it is directed that deductions, if any,

made would have to be totally refunded to the petitioner and it would be deemed that no punishment was ever imposed in the departmental proceedings. The refund must be made within six months from today.

4 This application, thus, stands disposed of.

(Navaniti Prasad Singh, J)

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