

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.148 of 2014

=====

Ram Chandra Prasad, son of late Baleshwar Prasad, resident of Village and P.O.- Barkarajpur, P.S.- Simri, District- Buxar (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar Old Secretariat, Patna.
2. Principal Secretary, Finance Department, Old Secretariat, Patna.
3. The Land Reforms Commissioner-cum-Secretary, Bihar, Patna.
4. The Divisional Commissioner, Saharsa (Kosi).
5. The Circle Officer, Saharsa Anchal, Saharsa.
6. The Assistant Settlement Officer (Revenue), Bhojpur.
7. The Accountant General, Bihar, Birchand Patel Marg, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mani Madhukar, Advocate.

For the State : Mr. Kinkar Kumar, SC 27.

For the A.G. : Mr. Anand Kumar, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

8 16-02-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:

"1.(i) To expedite the revision of pension, Gratuity and Leave Encashment.

(ii) To add the period of 6.7.1972 to 21.04.1975 towards the total service i.e. from 6.7.1972 to 31.03.2004 for revision of pension."

2. Learned counsel for the petitioner, on being asked as to how the petitioner will be entitled to be added for the period 06.07.1972 to 21.04.1975 when he was holding the post of Non-Medical Assistant in Health Department whereafter he got a fresh appointment on the post of Circle Inspector in Revenue Department, is not in a position to explain anything, save and except, by making reference to the entries made in Service Book.

3. The crucial question would be that what type of appointment of the petitioner was holding while he was appointed in Non-Medical Assistant in the Health Department on 06.07.1972 and whether in the fresh appointment of the petitioner made on the post of Circle Inspector, he had any lien continuing so as to get the benefit of past service.

4. As a matter of fact, when the petitioner has not enclosed either his appointment letter of 06.07.1972 of the post of Non-Medical Assistant or his fresh appointment letter of Circle Inspector dated 22.04.1975, this writ application, after more than ten years of his retirement for enhancement of pension and other retirement benefits, is not only misconceived but also suffers from gross delay. The petitioner, on the basis of service rendered on the post of Circle Inspector from 22.04.1975 to 31.03.2004, has already been paid full and final retirement benefit and therefore, he would not be entitled for either revision of his retirement benefit or accounting of the previous service while he was working on the post of Non-Medical Assistant in the Health Department.

5. When this part of the order has been dictated by the Court, learned counsel for the petitioner submits that as a matter of fact his entire retirement benefits was paid in the year 2004 by

treating his services to be either of Circle Inspector whereas the facts remains that the petitioner has already been promoted on the post of Assistant Settlement Officer on 25.03.2006 with effect from 27.08.1996 which had required the authorities to revise his pension.

6. As this part of the oral prayer made by the learned counsel for the petitioner does not find mention in the prayer portion of the writ petition, the respondents also cannot be expected to answer this question. The counter affidavit, which has been filed by the Senior Accounts Officer of the office of the Accountant General, has gone to explain that the pension which was paid to the petitioner treating his qualifying service of 29 years i.e. 22.05.1975 to 31.03.2004 was based on the sanction made by the parent department of the petitioner wherein the last pay of the petitioner was mentioned as Rs. 9,700/- and on the basis of that an authorized revised pension @ Rs. 4,245/- per month had been issued by the Accountant General with effect from 01.04.2004 and the difference of amount of Gratuity of Rs. 24143/- had been paid.

7. In that view of the matter, the grievance of the petitioner, which has not been made in this writ petition can be only agitated before the concerned authorities of the controlling

department of the petitioner, namely, Revenue and Land Reform Department and if it is found that on account of retrospective promotion given to the petitioner, after his retirement, as noted above, he has become entitled for any further revision of his post retirement benefit, the same may be extended to the petitioner if permissible and is accordance with law.

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

Sujit/-

(Mihir Kumar Jha, J)

U			
---	--	--	--