IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12305 of 2013

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1.The Union of India through the Secretary, Government of India, Ministry of Communication and Information Technology, Department of Posts, New Delhi-cum-The Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Assistant Director General(Vig.-III), Government of India, Ministry of Communication and Information Technology, Department of Posts(Vigilance Branch), Dak Bhawan, Sansad Marg, New Delhi.
3. The Chief Post Master General, Bihar Circle, Patna.

.... Petitioner/s

Versus

Jitendra Nath Pandey, son of Late Sachitanand Pandey, resident of Mohalla-Bir Kuar Singh Path, M.G. Road, Aurangabad, District-Aurangabad.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Sanjay Kumar(A.S.G)
For the Respondent/s : Mr.Sudhir Kr. Tiwary

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 22-01-2016

The Union of India in the Department of Posts is aggrieved by the order of the Central Administrative Tribunal, Patna Bench, Patna, dated 13-3-2013 passed in O.A.No. 785 of 2012.

2. The Tribunal directed that the disciplinary proceeding should be concluded within six months, and in the meantime, fifty percent of the retiral dues be released in favour of the applicant before it. The Department is aggrieved by the latter part of the order.

3. Pursuant to the notice issued by this Court, the applicant before the Tribunal, who is the contesting respondent in this writ petition, has appeared.

4.We have heard both the parties. In our view, the order of the Tribunal in respect of payment of fifty percent of retiral dues cannot be sustained, as it is in the teeth of the provisions of Central Civil Services(Pension) Rules, 1972(hereinafter referred to as C.C.S. Rules). Rule 69 of the C.C.S. Rules deals with payment of pensionary benefits, pending departmental or judicial proceedings. Sub-rule(1)(a) and (b) thereof clearly provide that in view of departmental proceedings being initiated, the Government servant will be entitled to payment of provisional pension. Clause(c) of sub-rule(1) thereof, in an unambiguous term, stipulates that no gratuity shall be payable, and its Proviso makes it clear that if the departmental proceedings are in relation to imposition of major penalties, then the gratuity is not to be paid till the conclusion of the proceeding, but in case minor punishments are contemplated to be imposed through the departmental proceeding, gratuity has to be paid. It is not in dispute that the proceeding against the contesting respondent, who was the applicant before the Tribunal, was for major punishment. In view of the statutory rules aforesaid, no gratuity was paid, and the Tribunal could not have passed an order, ignoring the statutory rule or overriding the statutory rule.

5. We are, thus, constrained to hold otherwise and overrule the order of the Tribunal to the extent it says that fifty percent of the

retiral dues is to be paid. The provisional pension the petitioner is being paid; gratuity cannot be paid.

6. Needless to say that as the departmental proceeding was initiated in 2008, and we are in the year 2016, the departmental proceeding must be taken to its logical end at the earliest. The Tribunal as far back as in 2013 had granted six months time to the Department to conclude the proceeding, but for one reason or the other, the proceeding has not yet been concluded. It is high time the Tribunal pulls its socks and conclude the proceedings. Subject to co-operation, the proceeding should be disposed of within three months.

7. With the aforesaid observations and directions, the writ petition is allowed.

(Navaniti Prasad Singh, J)

B.K.Roy/-

(Nilu Agrawal, J)

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