

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.6392 of 2016**

=====

Rama Prasad Sharma Son of Late Asharfi Chaudhari, Resident of Village-  
Kutubpur Dumar, P.O. - Minapur Rae, P.S. - Hajipur Sadar, District - Vaishali.

.... .... Petitioner

Versus

1. The State of Bihar through its Principal Secretary, (Education Department), Govt. of Bihar, New Secretariat, Patna.
2. The Director Secondary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Regional Deputy Director, Tirhut Division, Muzaffarpur.
4. The District Education Officer, Vaishali at Hajipur.
5. The District Programme Officer (Establishment), Vaishali.
6. The Accountant General, Bihar, Patna.
7. The Treasury Officer, Hajipur, Vaishali.
8. The District Accounts Officer, Vaishali.
9. The Drawing and Disbursing Officer, K.K. Vidya Mandir, Dharhara, Vaishali.

.... .... Respondents

=====

**Appearance :**

For the Petitioner : Mr. Rajeev Kumar Singh, Advocate  
Mr. Shashi Bhushan Kumar, Advocate

For the Respondent-State: Mr. S.S.P. Yadav, SC-14

For the Respondent-AG : Mr. Manish Kumar, Advocate

=====

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 16-12-2016**

**Re. : I.A. No. 6723 of 2016**

Learned counsel for the petitioner seeks leave to withdraw  
the present interlocutory application.

2. Leave is granted.

3. The interlocutory application is disposed of.



**C.W.J.C. No. 6392 of 2016**

This writ application has been filed by the petitioner for payment of retiral benefits such as, pension, gratuity, leave encashment, commutation of pension, etc.

2. Learned counsel for the petitioner submits that the petitioner was appointed as an Assistant Teacher in R.K.K. Vidayamandir, Dharhara, Vaishali on 01.05.1976 by the Managing Committee of the school. Since then, he was discharging his duty as Assistant Teacher in the said school, which was taken over by the Government in the year 1981. On attaining the age of superannuation, the petitioner retired on 31<sup>st</sup> January, 2015, whereafter, the Headmaster of the school sent his pension paper vide Letter No. 82 dated 05.01.2015 to the District Programme Officer (Establishment), Vaishali, but his post-retiral dues has not been paid till date.

3. He has further contended that while in service neither any departmental proceeding was initiated against the petitioner nor any criminal case was instituted against him. Even after his retirement no action has been taken against him under the Bihar Pension Rules, 1950, but arbitrarily his retiral benefits are not being paid by the respondents.

4. On the other, learned counsel for the State submits that ninety percent of the pension, earned leave, gratuity etc. has already been sanctioned to be paid to the petitioner and to that extent payment would be made to him shortly. He submits that in an internal inquiry conducted by a three men committee constituted under the order of the District



Magistrate, certain discrepancies were found in the service book of the petitioner for which steps are being taken. He has contended that in the light of the report of the Committee, the retiral benefits of the petitioner have not been paid to the petitioner so far. On query, learned counsel for the State concedes that no disciplinary action was taken against the petitioner while he was in service and even after retirement no action has been taken so far under the Bihar Pension Rules, 1950.

5. I have heard learned counsel for the parties and perused the record.

6. There is no dispute to the fact that the petitioner was allowed to retire on attaining the age of superannuation on 31<sup>st</sup> January, 2015. It is also not disputed that while in service neither any departmental proceeding was initiated nor any criminal case was instituted against the petitioner. It is also not the case of the State that any action has been taken against the petitioner in terms of Rule 43(b) or Rule 139 of the Bihar Pension Rules, 1950 till date.

7. It is well settled that gratuity and pension are not bounties. An employee earns these benefits by dint of his long, continuous and unblemished service. Right to receive pension has been treated as a right to property. In view of Article 300-A of the Constitution of India, no person can be deprived of his property save by authority of law. So far as the contention of the respondents that in inquiry conducted by three men committee certain discrepancies were found in the service book, this Court is of the view that in absence of any proceeding initiated against the



petitioner under the Bihar Pension Rules, 1950, the respondents cannot withhold the retiral benefits of the petitioner. Since the petitioner has already retired from service on 31<sup>st</sup> January, 2017, the action of the respondents in not paying him his retiral benefits like pension, gratuity, leave encashment, commutation of pension etc. is wholly illegal and arbitrary.

8. Accordingly, I direct the respondents to pay the petitioner all his post-retiral benefits within two months from today, failing which the payable amount would earn interest at the rate of 8% per annum from the date it became due till the date of its actual payment.

9. With the aforesaid observation and direction, the writ application is disposed of. However, there shall be no order as to costs.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 23.12.2016 |
| Transmission Date | NA         |

