IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23143 of 2013

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Moti Lal Vidyarthi S/O Late Mahabir Rajak Resident Of Vill. - Ramchandrapur, P.S. Murarpur, P.O. Biharsharif, Distt. - Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Old Secretariat, Patna
2. The Chief Secretary, Government Of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Department Of Finance, Government Of Bihar, Old Secretariat, Patna
4. The Commissioner Of The Commercial Taxes - Cum - Special Secretary, Finance (Commercial Taxes) Department, Government Of Bihar, New Secretariat (Vikas Bhawan), Patna
5. The Accountant General, Bihar, Veerrchand Patel Marg, Patna

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ratnesh Kumar Singh
For the Respondent/s State: Mr. Ajay Kumar Sharma A.C. to P.A.A.G.-I
For the Respnt. A.G.Bihar : Mrs.N.Mishra, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

7 22-10-2016 Heard the learned counsel for the parties.

2. The petitioner initially prayed for the following reliefs:-

> "For issuance of an order(s)/ direction(s) or writ(s) in the nature of mandamus for directing the respondent authorities to pay the petitioner his Regular Pension after converting his Provisional Pension (commuted) to Regular Pension and release the petitioner's gratuity

amount, and amount of earned leave with statutory interest in view of the fact that the petitioner retired in the year 2003 and orders passed by this Hon'ble Court vide Annexures – 4 and 5 to this writ petition"

3. I.A.No.6224 of 2016

The petitioner sought some additional reliefs in light of subsequent development, as under;

.(iii) to hold and declare that the departmental proceeding no.88 of 2014 against the petitioner stood quashed pursuant to judgment and order dated 4.1.2016 passed in C.W.J.C. No.2844 of 1999 and/or in alternatively to hold and declare that the departmental proceeding no.88 of 2014 against the petitioner has become stale in view of its date of occurrence is of the year 1991.

(iv) to direct to grant promotions from the date of promotion of juniors to the petitioner and all its consequential benefits up to the rank of Additional Commercial Tax Commissioner as the respondents have kept the promotion of the petitioner in seal cover in Departmental Promotion Committee on 24.7. 1995.

(v) to hold and declare that the withholding of 10% of pension and full gratuity & unutilized leave without any punishment order till date and award interest @ 18% per annum for wrongful withholding of 10% of pension and full gratuity & unutilized leave.

(vi) to award compensation to the petitioner in the facts and circumstances of the case."

4. Before I consider the rival submissions of the parties, it would be relevant to notice the facts of the case in brief:

The petitioner was appointed in the Junior Grade of the Bihar Finance Service of the Government of Bihar in the year 1972. He was promoted to the post of Assistant Commissioner of Commercial Taxes in the year 1984 and thereafter as Deputy Commissioner, Commercial Taxes in the year 1986. In the year 1988, he was posted at Bokaro Circle and later on in Jhajha circle. On 20.09.1991, he was put under suspension. In 1994, he filed C.W.J.C. no. 2789 of 1994 challenging the continuance of order of suspension. The writ petition was disposed of on 31.03.1995 with observation that if the departmental proceeding is not concluded within four months for no fault of the petitioner, the order of suspension would cease to operate. However, the departmental proceeding did not conclude within the time span and in the meantime some of the juniors of the petitioner were promoted.

5. Being aggrieved, the petitioner filed C.W.J.C. No. 4089 of 1997 for direction to the respondents to take necessary steps for his promotion to the post of Joint Commissioner, Commercial Taxes in the department. The writ application was disposed of on 04.08.1998 with a direction that the departmental proceeding should be concluded by 16.11.1998, failing which the same would stand quashed. The learned Judge further observed that if the petitioner is found fit for promotion, he too should be promoted prior to the date of promotion of his juniors in 1995. However, on request of the State, the time period for concluding the departmental proceeding was extended to 30.12.1998 vide order, dated 27.11.1998, passed in M.J.C. No. 3495 of 1998. Even this dead line crossed, the departmental proceeding still remained pending.

6. The proceeding, as such, stood quashed on 31.12.1998 in the light of the order of the Court. However, the

petitioner was suspended vide order, dated 10.02.1999 on similar charges. He challenged the suspension order, being C.W.J.C. No. 2844 of 1999. During the pendency of the writ application, the petitioner superannuated on 31.03.2003. This Court vide order, dated 19.07.2004 observed that as no proceeding under Section 43B has been initiated, the petitioner would agitate his matter pertaining to promotion and payment of consequential monetary benefits, before the appropriate authority (Annexure-4). The aforesaid writ application was finally disposed of on 04.01.2016. It would be relevant to quote the order, dated 04.01.2016 in its entirety:

> "On the other hand, as the matter is of the year 1999, I do not propose to keep it pending. The writ application can be disposed of in the following terms:-
>
> (a) In case, if the proceeding under Rule 43-B of the Bihar Pension Rules has come to its logical conclusion and the petitioner is aggrieved by the final order in the matter, it would be open for him to challenge the same in accordance with law.
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> (b) In case, the proceeding has not been completed as yet, I do not keep it appropriate to allow further indulgence in the matter. If the proceeding under Bihar Pension Rules has not yet concluded, the same should be concluded within a period of four months from the date of

> this order, failing which the proceeding would stand quashed, as it would be unfair to allow a proceeding to continue for an unduly long period."

7. It now appears that the matter finally got settled, as the Government vide Memo No. 325, dated 14.09.2016 will draw the departmental proceeding against the petitioner, which would mean that no charges were there against him.

8. The petitioner may file a detailed representation before the Principal Secretary, Department of Finance, Government of Bihar, in view of the changed scenario withdrawing the proceeding against him. In case any such representation is filed, the same would be disposed of within a period of two months from the date of receipt of the same. It would be open for the petitioner to draw the attention of the authorities to the benefits contemplated in SC/ST Act, 1989, as he belongs to Scheduled Caste category.

9. With the aforesaid observation / direction the writ application stands disposed of.

(Samarendra Pratap Singh, J)

AnilKrSinha/-

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