

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14809 of 2015

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Sudamiya, W/o Jawala R/o- PMCH Naya Quarter, P.S. Pirbahor, District- Patna.

.... Petitioner

Versus

1. Patna Municipal Corporation through its Mayor, Budh Marg, Patna.
2. Municipal Commissioner, Patna Municipal Corporation, Budh Marg, Patna.
3. Chief Accounts Officer, Patna Municipal Corporation, Budh Marg, Patna.
4. Executive Officer Nutan Rajdhani Anchal Patna Municipal Corporation 10 Harding Road Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Manoj Kumar Pandey, Advocate
For the PMC : Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-05-2016

Heard parties.

Petitioner claims to have retired on 06.05.2014. It is contended that thereafter post retiral dues have not been paid to the petitioner.

A counter affidavit has been filed on behalf of the Patna Municipal Corporation stating that the provident fund amount including the employer's contribution along with statutory interest have already been paid during the pendency of the writ petition. So far other retiral dues are concerned, it is stated that several orders have been passed in this regard, some of them have been appended with the counter affidavit, that the same should be paid in chronological order.



It is contended on behalf of the Corporation that by now a decision has been taken for payment of retiral dues i.e., gratuity, leave encashment etc. to the employees who have retired on or before 31.03.2013 and petitioner having been retired on 06.05.2014 would also be paid the dues immediately after her claim matures in terms of the chronological order, though the provident fund amount has already been paid. So far the difference of arrears of salary on account of revision in scale is concerned, it has been stated that at present the same is not being paid due to the paucity of the fund and the cases are already pending before this Court with respect to such issue in which the State Government has been directed to file counter affidavit. Such being the situation, whenever the employee on the identical footing would be paid such amount, there would be no discrimination with the petitioner also.

Learned counsel for the petitioner seeks direction for payment pension. It is lastly submitted on behalf of the petitioner that no such stand has been taken in the writ petition that the petitioner would be entitled for pension also. In reply thereto, it is submitted that once the petitioner has not opted for pension and the contributory amount of the employee has already been paid to him under Contributory Provident Fund scheme, such claim cannot be raised by the petitioner. However, since the issue has not been raised in the writ

petition and in view of the absence of any pleading and its reply on affidavit, this Court would refrain from deciding it in the present matter, however, it would remain open to the petitioner to ventilate her aforesaid grievance before a competent forum.

Accordingly, this writ application is being disposed of with a direction to the respondents – Patna Municipal Corporation to pay the admissible post retiral dues expeditiously and whenever the petitioner’s term would come in the chronological order it would be the duty of the authority of the Patna Municipal Corporation to intimate her regarding the same so that payment would be made immediately. So far difference of salary is concerned, that would also be paid to the petitioner along with other employees whenever the issue concerned would be resolved and fund would be made available.

This writ application stands disposed of.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
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