

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.773 of 2015

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1. Azad Choudhary Son of Sri Hira Choudhary Resident of Village-Bishunpur, P.S. Siwan Muffasil [O.P] District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Panchayati Raj Department, Government of Bihar, Patna.
2. The Collector, Siwan
3. The Deputy Development Commissioner -cum-Chief Executive officer, Zila Parishad, Siwan.
4. The Chairman, Zila Parishad, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava
For the Respondent/s : Mr. Dhananjay Kumar, Advocate
For the State : Mr. Ashok Kumar Choudhary, AAG-13

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 05-05-2016 Heard the counsel for the petitioner, Mr. Dhananjay Kumar for the respondent-Zila Parishad, Siwan (for short ‘the Parishad’), and Mr. Choudhary AAG-13 for the State.

A counter affidavit on behalf of the respondent-Zila Parishad is filed. Counter affidavit on behalf of the State has also been filed.

The petitioner served the respondent –Parishad as Assistant and superannuated w.e.f. 31st of October, 2013. Since the post retiral dues payable to him were not paid, he filed the present writ petition for the payment of gratuity amount/ leave encashment amount, life insurance amount, difference of the salary amount

from 1985 to 31.10.2013 inclusive all dearness allowance.

In the counter affidavit, filed on behalf of the respondent nos. 3 and 4 affirmed by Sri Dhananjay Mani Tiwari, District Engineer of Zila Parishad, Siwan the following stand has been stated in para-2:-

“2.That at the very out set to this reply it is stated that except leave Encashment all other retiral dues, including salary has been paid to the petitioner.”

With respect to the payment of the leave encashment amount, it is stated that the Zila Parishad receives the grant/aid 70% from the State Government. On account of non –availability of the amount /fund several retiring employees of the Parishad have not been paid the said amount. It is also stated that the respondent undertakes that as soon as the amount/fund/aid/grant is received from the State Government, the dues of the petitioner under the head ‘leave encashment, shall be paid either in full or proportionately, according to their respective age of retirement which is maintained in the office.

Having heard the parties, this Court finds that majority of the post retiral dues of the petitioner have been cleared by the respondent- Parishad. Only the amount under the head “ Leave Encashment” is yet to be cleared and paid in favour

of the petitioner. Mr. Choudhary has drawn attention of the Court to Annexure-C of the counter affidavit wherefrom it appears that the State Government has recently released certain amounts for financial year 2014-15. If that be the case then the petitioner should be granted liberty to ventilate the grievance with respect to non payment of the amount under the head 'Leave Encashment' for consideration before the Executive Officer of the Parishad. If any such application is filed, the concerned respondent will consider the same and pass appropriate order in accordance with law.. It will also be open to the petitioner to raise grievance with regard to the other discrepancies, if any, in payment of the admissible dues.

(Kishore Kumar Mandal, J)

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