

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4783 of 2014

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Kusheshwar Upadhyay S/O Late Baliram Upadhyay Resident Of
Village Sonbarsa, P.S. Bairiya, District Balia (U.P.) At Present
Resident Of Village Amnour (Harnarayan), P.S. Amnour, District
Saran At Chapra Petitioner

Versus

1. The State Of Bihar Through The Director General Of Police,
Bihar, Patna.
2. The Director General Of Police, Bihar, Patna. Null Null
3. The Inspector General Of Police (Head Quarter), Bihar, Patna.
4. The Deputy Inspector General Of Police (Administration),
Bihar, Patna.
5. The Sr. Superintendent Of Police, Muzaffarpur.
6. The Superintendent Of Police, Sitamarhi.
7. The Superintendent Of Police, Crime Investigation Department
(C.I.D.), Patna.
8. The Accountant General, Bihar, Patna Respondents

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Appearance :

For the Petitioner : Mr. MURARI PRASAD SINHA, advocate

For the Respondents : Mr. MANOJ KR. AMBASTHA, SC 26

For the AG : Mr. Arun Kr.Arun, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP
SINGH**

ORAL JUDGMENT

Date: 02-09-2016

The petitioner has prayed for a direction to the respondents to ensure payment of entire admitted post retiral dues.

The petitioner joined service on the post of Sepoy in the District Police Force at Muzaffarpur vide order no. 1331 of 1971 in pay scale of Rs.95/- per month. Later in June, 1973 he transferred to Sitamarhi and remained there till December, 1981 till that period he received salary.

The petitioner submits that order of dismissal is bad in

law as it is based on no material. He further submits that the respondents never communicated the order of dismissal to him and for the first time he came to learn about it through the counter affidavit itself.

Counter affidavit has been filed on behalf of the Superintendent of Police, Sitamarhi (respondent no.6) stating that the petitioner remained posted in the district of Sitamarhi from 17.7.1973 to 3.7.1982 and was dismissed from service with effect from 3.7.1982, vide departmental proceeding No.29 of 1978 for the charges of indiscipline and carelessness on duty. which is also evident from charge sheet dated 16.12.1975. Respondents further states that the petitioner was never transferred to CID and the departmental proceeding was *ex parte* as he refused to participate in the proceeding. Besides this, there was no contribution by the petitioner towards GPF and Group Life Insurance during the entire period of posting in Sitamarhi district. In paragraph 14 they state that the petitioner remained posted in Sitamarhi district from 17.7.1973 to 3.7.1992 and since 17.7.1976 he remained absent on duty without sanctioned leave till date of order of dismissal on 3.7.1982.

Grounds mentioned by the petitioner could be a ground for consideration, when the dismissal order could have been challenged. It appears that the petitioner, at least, has not

challenged the order of dismissal dated 3.7.1982, till the date of filing of the writ petition in the year, 2014. For the present, no positive order can be passed directing the respondents to pay him the retiral dues. Nonetheless, petitioner would be entitled to his payment of GPF amount to the extent of its deposit/deduction. Furthermore, he would be entitled to his insurance claim as far as the same is admissible.

In case, the petitioner has a counter claim in this regard, he would file a representation before appropriate authority, who would look into the matter and pass appropriate order within four months from the date of filing of the representation along with a copy of this order by the petitioner.

With the aforesaid observations and directions, the writ petition stands disposed of.

(Samarendra Pratap Singh, J)

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