

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17221 of 2012

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1. Abhay Kumar Tiwari Son Of Late Ram Chandra Tiwari Resident Of
Village Barki Nainijor, P.S. Nainijor, District Buxar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Secretary, Department Of Home (Police), Government Of Bihar, Patna
3. Secretary, Department Of Finance, Government Of Bihar, Patna
4. Director General Of Police, Government Of Bihar, Patna
5. Senior Superintendent Of Police, Patna
6. Officer Incharge Of Bikram Police Station, District Patna
7. District Provident Fund Officer, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kr. Thakur, Sr. Advocate
For the Respondent/s : Mr. Prabhu Nr. Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

5 20-08-2016 Heard learned counsel for the parties.

The only dispute, which the present application filed under Article 226 of the Constitution of India raises relates to withholding of 10% monthly pension admissible to the petitioner, who retired with effect from 30.06.2010, from the post of Sub-Inspector of Police, under Patna District Police Force.

There is no dispute about the fact that the said amount has been withheld.

Learned counsel for the State has argued that when the petitioner was in service, punishment of “black mark” was imposed on him and, therefore, the said 10% of monthly pension

was withheld.

The submission so made is not at all tenable. The pension of the petitioner is governed by Bihar Pension Rules. No decision has been taken for withholding any amount of pension from the petitioner's entitlement, either in exercise of power under Section 43(b) of the Bihar Pension Rules or under Rule 139 of the said Rules. There is, therefore, no justification to withhold the said amount.

The Senior Superintendent of Police, Patna is, accordingly, directed to immediately sanction payment of remaining 10% of pension within a period of three weeks from today. The Accountant General, Bihar, shall be required to issue necessary authority slip within two weeks thereafter.

As regards General Provident Fund amount is concerned, it is the stand of the State Respondents that the admissible amount has been paid.

Learned counsel for the petitioner, however, submits that the petitioner may have the liberty to approach the District Provident Fund Officer, Patna, if he finds any discrepancies in calculation of General Provident Fund amount.

It is observed that the petitioner shall have such liberty.

There is statement in paragraph 13 of the writ

application that leave encashment amount has also not been paid.

It is directed that if the said amount has not been paid so far, the same must be paid to the petitioner within three weeks from the date of receipt/production of a copy of this order. Further, if the said amount has not been paid till passing of the present order, it is held that the petitioner shall be liable for interest at the rate of 8% per annum from the date the same became due till actual payment. It is, accordingly, directed payment of leave encashment shall include interest, thereon allowed in terms of present order.

This application is allowed to the extent as above.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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