

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 7712 of 2015

Ramesh Kumar, Son of late Sidheshwar Prasad Singh, Resident of Village/ P.O.- Khakhari, P.S.-Kashichak, Distt.- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Education Officer, Lakhisarai.
4. The District Programme Officer (Establishment), Lakhisarai.
5. The Block Education Extension Officer, Halsi, Distt.-Lakhisarai.
6. The Block Development Officer, Halsi, Distt.-Lakhisarai.
7. The Treasury Officer, Lakhisarai.
8. The Accountant General, Bihar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sidhendra Narayan Singh, Adv.

For the Acctt. General: Mr. Kameshwar Pd. Gupta, Adv.

For the State : Mr. AC to AAG 8

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-09-2015

Heard parties.

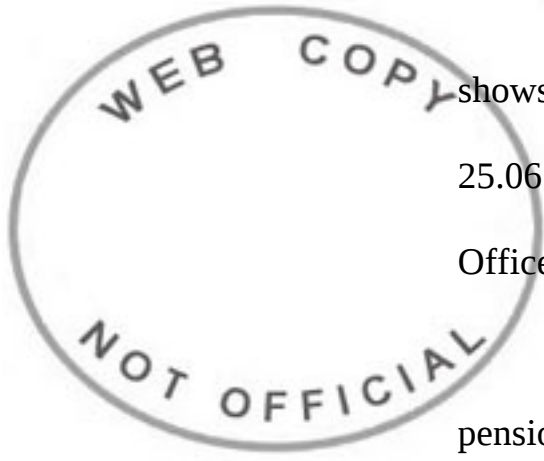
It is contended on behalf of the petitioner that FIR was lodged before his retirement and proceeding was pending. However, in view of Annexure-5 dated 27.10.2009, time was granted to the learned counsel for the State to seek instruction as to whether any proceeding has been initiated under Section 43(b) of Pension Rules under any statutory provision or not. Learned counsel for the petitioner submits that he has not been able to

receive any information in this regard.

Counter-affidavit filed on behalf of the respondent no. 4 shows that No Objection Certificate vide Annexure-A dated 25.06.2015 has been filed in the Office of the District Programme Officer (Estab.), Education Department, Lakhisarai.

Petitioner is aggrieved by Annexure-3 by which 90% pension/provisional pension has been sanctioned and the gratuity as well as leave encashment has not been paid as yet. It is stated in Annexure-6 that the same has been kept in abeyance till sanction is granted. Learned counsel for the petitioner places reliance upon the decisions of the Apex Court in **State of Jharkhand & Ors. Vs. Jitendra Kumar Srivastava & Anr. [2013(3) PLJR 458]** and also in **Rajnanadan Prasad Vs. The State of Bihar through the Principal Secretary, Department of Education & Ors. [2016(2) PLJR 302]** by which it has been held that part of pension cannot be withheld and there is no finding having been recorded by the concerned employer in a proceeding drawn for the aforesaid purpose.

Accordingly, this writ application is being disposed of with a direction to the respondent no. 2, i.e., the Director, Primary Education, Bihar, Patna, in the facts and circumstances of the case that since No Objection Certificate has been



submitted and work has already been completed and Annexure-A has already been written to him by the District Programme Officer intimating that 100% pension and gratuity as well as leave encashment should be sanctioned and released in favour of the petitioner, let the same be paid within a period of two months from the date of receipt/production of a copy of this order. The Director would also examine the issue as to whether in view of the delay in payment, the petitioner would be entitled for grant of statutory interest @ 5% or not in view of the State Government Memo No. PC-2-1-46/79/3155 dated 07.11.1981, if it is found payable as per the Circular then that should also be calculated and paid to him.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.10.2016
Transmission Date	N/A