IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16206 of 2015

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Vijay Kumar Jha, Son of late Mohan Narayan Jha, Resident of Village- Karanpur, P.S.- Andhrasthadi, District- Madhubani.

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Information and Broadcasting, India, New Delhi.
2. The Director General, All India Radio, Akashwani Bhawan, Parliament Street, New Delhi.
3. The Pay and Account Officer, All India Radio Akashwani Bhawan, 4th Floor, Eden Garden, Kolkata.
4. The Station Director/Engineer (Head Office), All India Radio, Purnea.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Suresh Pd Singh No.1, Advocate
For the Respondents	:	Mr. S. D. Sanjay, A.S.G.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
And
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 30-06-2016

The order dated 13th February, 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as 'the Tribunal') is subject matter of challenge in the present petition. Vide the impugned order, the claim of the petitioner for direction to pay full pension, gratuity, commuted value of pension including leave encashment and amount of Group Insurance Scheme was declined.

2. The petitioner retired from service on 28th February, 2005, but before retirement, a criminal case as also departmental

proceedings were initiated. The petitioner claimed release of full pension, gratuity, commuted value of pension including leave encashment and the amount of Group Insurance Scheme through the invocation of the jurisdiction of the Tribunal through the Original Application No.857 of 2013.

3. The stand of the respondents is that in terms of Rule 69 of the Central Civil Services (Pension) Rules, 1972, (hereinafter referred to as 'the Rules') during pendency of the departmental or judicial proceedings, only provisional pension can be paid, but the final pension or gratuity cannot be released. The learned Tribunal, thus, dismissed the Original Application after holding that action of the respondents of withholding final pension during pending departmental or judicial proceedings calls for no interference.

4. Rule 69 of the Rules reads as under:

> **69. Provisional pension where departmental or judicial proceedings may be pending. --** 1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.
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> (b) The provisional pension shall be authorized by the Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the

> conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.
>
> (c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon :
>
> Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.
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> (2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period."

5. A perusal of the sub-rule (1) (a) of Rule 69 shows that the provisional pension shall be authorized equal to the maximum pension which would have been admissible on the basis of qualifying service on the date of retirement of the Government servant. Apart from such provisional pension, there is no provision for payment of any other retiral dues. Thus, in terms of Rule 69 of the Rules, the pension, which would have been otherwise admissible to an employee, would alone be payable to such employee after retirement on provisional basis subject to the adjustments after conclusion of the

departmental/judicial proceedings.

6. In view thereof, we dispose of the present writ petition with a direction to the respondents to authorize the provisional pension equal to the maximum amount of pension only which would be admissible to the petitioner keeping in view his qualifying service subject to the final decision of the departmental/judicial proceedings and adjustments after conclusion of such proceedings.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
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