

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16769 of 2014

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Ram Sakal Singh, S/o Late Prayag Singh, Resident of Village and P.O. Keshopur,
P.S. Sakra, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Administration cum Additional Secretary, Education Department,
Government of Bihar, Patna.
4. The Accountant General, Bihar, Birchand Patel Path, R-Block, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bajarangi Lal
For the State	:	Mr. Amish AC to GP-13
For the AG, Bihar	:	Mr. Ram Kinker Choubey

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-08-2016

Heard learned counsel for the parties.

The petitioner is under a mistaken understanding of facts that 10 per cent of his pension has been withheld by the State Government as a measure of punishment without conducting any kind of departmental enquiry or proceeding.

It is evident from some of the circulars as well as the rule, which has been put in place on 19.07.2012 under Article 309 of the Constitution of India that if proceeding or a criminal case has been initiated against the government servant while he was in service and has superannuated in

the meanwhile, he will be entitled to 90 per cent pension. 10 percent will be not withheld, but held back and will only be settled subject to outcome of such proceeding. Therefore, the plea taken in the writ application of the petitioner that the decision to hold back 10 per cent pension is penal in nature does not seem to be correct in fact or as per the rule and circular in place.

It is clarified that if the petitioner comes clean, then he will surely be paid the balance 10 per cent of pension as well, otherwise if he incurs a conviction or punishment then the necessary rule will come into play and only at that stage a fresh decision is required to be taken to either hold back the 10 percent pension or release it.

Writ application is disposed off with observation / direction as above.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	22.08.2016
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