

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14561 of 2014

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1. Madan Prasad S/o Late Jitan Prasad Resident of Mohalla West Patel Nagar, 14A/4, Kiran Kunj Ganga Path, P.S. Shastri Nagar, Town and District Patna-800023.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Deptt. of Personnel and Administrative Reform, Old Secretariat, Patna.
3. The Deputy Secretary, Department of Personnel and Administrative Reform, Old Secretariat, Patna.
4. The Principal Secretary, Department of Health and Family Welfare, New Secretariat, Patna.
5. The Accountant General of Bihar, Govt. of India, R. Block, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhirendra Narain Mallik

For the Respondent/s : Mr. R. B. Prasad Yadav, AAG 11
Mr. Ramashray Roy, A.C. to AAG 11

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 17-09-2016

The petitioner has filed this writ application claiming that the government had no authority to order withholding of 10% of pension, 10% of gratuity and the whole amount of Leave Encashment. The petitioner had superannuated on 31.12.2013 where after a departmental proceeding with the aid of Rule 43(b) of the Bihar Pension Rules was initiated and is pending against him.

Submission is that notwithstanding any departmental proceeding pending against the petitioner, his retiral dues cannot be withheld by the government. However, a

supplementary affidavit has been filed by the petitioner after a copy of the counter affidavit was served on him, stating that all amounts have now been released to the petitioner. His only claim is that he is entitled to the delayed payment interest.

Considering the fact that the petitioner had retired only about two years back and immediately upon requisition being filed, payments have been made by the State, it is not proper to grant interest to the petitioner in this writ petition. However, if there is any statutory interest to be paid for delayed payment, the State would be obliged to pay the same within a period of one month from the date of receipt/production of a copy of this order. Beyond that, no relief can be granted to the petitioner.

The writ petition is disposed of with the direction/observation aforesaid.

(Navaniti Prasad Singh, J)

Amin/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	