

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21821 of 2012

=====

Dig Vijay Singh, S/o Late Basudeo Singh, R/o Village and P.O.-Ratsar, P.S.-
Garwar, Distt- Ballia (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Irrigation Commissioner-cum-Secretary, Water Resources Department,
Government of Bihar, Sinchai Bhawan, Patna
3. The Joint Secretary, Irrigation Department, Govt. of Bihar, Sinchai Bhawan,
Patna
4. The Special Secretary, Irrigation Department, Govt. of Bihar, Sinchai Bhawan,
Patna
5. The Deputy Secretary to the Government of Bihar, Irrigation Department, Govt.
of Bihar, Sinchai Bhawan, Patna
6. The Deputy Secretary, Finance, Department of Personal Claim Fixation Cell
Department, Old Secretariat, Patna
7. The Chief Engineer, Rural Development Department Special Cell, Harding
Road, Barrack No.2, Patna
8. The Chief Engineer, Jail Vigyan Evan Yojna Ayojan Water Resources
Department , Anisabad, Patna
9. The Accountant General , Bihar , Birchand Patel Path, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner :

For the State : Mr. Chittaranjan Sinha, PAAG-2
Mr. Shailendra Kumar, A.C. to PAAG-2

For Accountant General : Mr. Sanjay Kumar, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL JUDGMENT

Date: 08-09-2016

Heard learned counsel for the parties.

2. Petitioner who has attained the age of superannuation on 30th of April, 1995 has invoked the writ jurisdiction of this Court for claiming 100 per cent pension even though criminal case bearing Vigilance P.S. Case No. 17 of 1987 for the offences under Sections 467, 468, 471, 420, 109 and 120B of the Indian Penal Code and Section 5 of the Prevention of Corruption Act is pending trial.

3. Earlier petitioner filed C.W.J.C. No. 9967 of 1998 before this Court in which there was direction to pay provisional pension on the basis of his pay-scale at the time of his retirement along with provisional gratuity of 90 per cent and Leave Encashment. Such amount stands paid including 90 per cent of the monthly pension.

4. In the present case, the petitioner claims 100 per cent pension.

5. Once this Court has passed an order on 17th of May, 1999, and such order has attained finality, the petitioner after passage of time cannot invoke the writ jurisdiction of this Court again for payment of 100 per cent provisional pension. Whether 100 per cent provisional pension should be paid or 90 per cent provisional pension should be paid is a decision to be taken by the Executive in the facts and circumstances of the case. Mere fact that he is being paid 90 per cent of the pension which is in terms of the directions issued by this

Court whereas some other employees of the State are being paid 100 per cent of the pension is not a ground on which there should be an order to make 100 per cent pension.

6. There is no illegality in payment of 90 per cent of pension, which may warrant interference in the writ jurisdiction of this Court.

7. The writ application is, thus, dismissed.

(Hemant Gupta, J)

P.K.P.
N.A.F.R.

U			
---	--	--	--