

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3 of 2017

=====

Sidh Nath Sharma, S/o Late Agati Sharma, resident of village - Neori, P.S. - Bihta,
District - Patna retired from the post of Junior Engineer, Building Division, Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Deputy Secretary, Building Construction Department, Government of Bihar, Patna.
4. The Engineer-in-Chief, Building Construction Department, Patna.
5. The Superintending Engineer, Building Construction Division, Gaya.
6. The Executive Engineer, Building Construction Division, Gaya.
7. The Accountant General, Bihar, Patna.
8. The State of Jharkhand at Ranchi through its Chief Secretary.
9. The Secretary, Building Construction, Govt. of Jharkhand, Ranchi.
10. The Executive Engineer, Building Construction Division, Sahebganj (Jharkhand).

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Adv.
For the Respondent-State	:	Mr. Subodh Kumar, AC to SC-26
For the State of Jharkhand	:	Mr. Arup Kumar Chongdar, Adv.
For the Respondent-AG	:	Mr. L.P.K. Rajgrihar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-08-2017

Heard Mr. Shashi Bhushan Singh, learned counsel
appearing for the petitioner, Mr. Subodh Kumar, learned Assisting
Counsel to Standing Counsel No.26 for the State, Mr. L.P.K.
Rajgrihar, learned counsel appearing for the Accountant General,
Bihar and Mr. Arup Kumar Chongdar, learned counsel appearing
for the State of Jharkhand.

The writ petition was filed with three-fold relief, namely:

- (a) For issuance of a writ in the nature of certiorari for
quashing the direction issued by the Executive



Engineer, Building Division, Sahebganj as contained in letter dated 16.7.2010 addressed to the Executive Engineer, Road Construction Department, Road Division, Latehar in so far as it mentions that a sum of Rs.4,47,119/- is outstanding against the petitioner.

- (b) For issuance of a writ in the nature of mandamus commanding the respondent no.2 i.e. the Principal Secretary, Building Construction Department, Government of Bihar, Patna to treat the period 14.5.2005 to 4.8.2005 as on duty in view of the fact that the petitioner was awaiting for his posting order after bifurcation of the State under the Bihar Reorganisation Act, 2000.
- (c) For issuance of a direction for fixation of pension and payment of other retiral dues.

This Court taking note of the grievance so raised by the petitioner in its order passed on 30.6.2017 required an answer from the respondents and following which a supplementary counter affidavit has been filed by the Executive Engineer, Building Construction Division, Gaya in which at paragraph 5 it is stated that no proceeding for recovery of any amount was initiated against the petitioner who was superannuated on 31st of December, 2007. At paragraph 6 of the supplementary counter affidavit it is stated that



vide letter dated 31.7.2017 the pension and gratuity of the petitioner has been sanctioned and forwarded to the Accountant General, Bihar, Patna for necessary orders. At paragraph 7 of the supplementary counter affidavit it is stated that the waiting for posting period i.e. 14.5.2005 to 4.8.2005 has been regularized vide order dated 12.7.2017 and arrears of salary for the said period has been passed to the tune of Rs.65,196/-, a copy of which has been placed on record vide Annexure R6/D. At paragraph 8 of the supplementary counter affidavit it is stated that even the leave encashment amount has been sanctioned vide letter dated 8.8.2017 and the bill has been sent to the Treasury, Gaya for payment of Rs.3,08,738/- to the petitioner. At paragraph 9 of the supplementary counter affidavit it is stated that the benefit of 1st ACP and 2nd ACP as well as the benefit of revision of pay scale with effect from 1.4.1997 to 31.12.2007 being the date of retirement has also been sanctioned and the arrears of differential salary to the tune of Rs.8,12,003/- has been sent to the treasury for payment to the petitioner.

Although at this stage Mr. Singh, learned counsel appearing for the petitioner further proceeds to raise the issues on the veracity of the order bearing Memo no.1652 dated 24.7.2017 present at Annexure-11 to the rejoinder which is an order of regularization of the services of the petitioner for the past period



other than for which the writ petition has been filed as well as on the issue of increment due from 1.1.1990 to 1.1.1999 but considering the deep slumber from which the petitioner has risen to approach this Court, he should be thankful for the benefits provided to him. Having superannuated as back as on 31.12.2007 it is after a decade that the petitioner has woken from slumber to claim reliefs as has been enumerated hereinabove and yet never chose to raise the issues which are now being raised by Mr. Singh as an afterthought. The claim being raised belatedly is accordingly rejected.

In view of the stand taken by the respondents in the supplementary counter affidavit as regarding the steps taken to pay the admissible claims to the petitioner, nothing further survives for consideration in this writ petition which is accordingly disposed of.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13-09-2017
Transmission Date	NA

