

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5945 of 2016

=====

Hari Narayan Choudhary son of Late Rama Choudhary, resident of Mohalla-
Fatzampur, P.O.- Sabalpura, P.S.- Didarganj, District -Patna

.... Petitioner/s

Versus

1. The Patna Municipal Corporation, C- Block, Second Floor, Maurya Lok
Complex, Dak Bunglow Road, Patna-800001 through its Commissioner.
2. The Commissioner, the Patna Municipal Corporation, C-Block, Second Floor,
Maurya Lok Compex , Dak Bunglow Road, Patna-800001

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ajay Prasad, Advocate

For the Respondent/s : Mr. Ranjeet Kumar Pandey, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 06-04-2017

By the present writ application the petitioner seeks a
direction to be issued to the respondent authorities for payment of
retiral benefits.

2. The petitioner retired with effect from 30.09.2015 from
the post of Revenue Officer of the Patna Municipal Corporation (for
short 'the Corporation'). After retirement, he submitted his pension
papers to the authorities of the Corporation, however, the contention
of the petitioner is that till date his post retiral dues have not been
paid.

3. A counter affidavit has been filed on behalf of the
Corporation wherein details of the steps taken so far for payment of



post retiral dues to the petitioner has been highlighted.

4. It would be evident from the counter affidavit filed on behalf of the Corporation that after retirement the pension of the petitioner has been fixed vide Pension Fixation Order dated 17.12.2015 and he is getting his pension regularly in the revised scale.

5. learned counsel for the Corporation submitted that arrear of salary on account of revision of pay as well as arrear of dearness allowance to the tune of Rs.3,42,013/- has already been paid to the petitioner through R.T.G.S. vide order as contained in memo no.693 dated 24.10.2017 (Annexure-B to the counter affidavit). He submitted that amount of provident fund to the tune of Rs.1,41,990/- has also been directed to be paid to the petitioner in his savings account vide memo no.3411 dated 03.04.2017 and the same is likely to be paid soon. He submitted that the petitioner is not entitled to conveyance allowance and, as such, the same is not payable to him. So far as other retiral dues are concerned, a mechanism has been evolved to pay the death-cum-post retiral benefits in chronological manner as per the date of retirement/death of the employees of the Corporation. He submitted that to avoid any discrimination earlier a decision was taken by the Corporation to pay the death-cum-post retiral benefits to its employees who died/retired upto 31.03.2010 and, thereafter, vide order dated 31.03.2014 a decision was taken by the Corporation to



pay death-cum-post retiral benefits to its employees who retired/died upto 31.03.2012. In the same manner vide order dated 22.09.2015 a decision was taken by the Municipal Commissioner of the Corporation to pay death-cum-post retiral benefits to its employees, who retired upto 31.03.2013 and at present the employees, who retired/died upto 31.03.2013 are being paid their death-cum-post retiral benefits.

6. He submitted that the aforesaid mechanism has been evolved due to paucity of fund. The fair stand of the Corporation to pay retiral benefits in chronological manner due to fund crunch has been appreciated by this Court in several other writ applications. He submitted that the petitioner is not being discriminated nor his legal claims are being denied by the Corporation and the Corporation would certainly pay his other post retiral dues when other similarly situated employees would be extended the said benefits. The aforesaid stand of the Corporation has not been controverted by the petitioner.

7. In that view of the matter, the writ application is disposed of with a direction that the Corporation shall take all possible steps in order to ensure that all the retired employees are paid their due retiral benefits without delay as the right to pension is not only a Constitutional right to property in terms of Article 300-A of the Constitution of India, but also a fundamental right under Article 21 of



the Constitution as it concerns right to livelihood.

8. With the aforesaid observations and directions, the writ application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.04.2017
Transmission Date	

