

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8343 of 2015

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Ram Billas Prasad, Retd. Executive Engineer, West Jay Prakash Nagar, P.S.-
Jakkanpur, P.O.- G.P.O., Patna, Pin 800001.

.... Petitioner

Versus

1. The President cum Managing Director, Bihar State Power Holding Company Ltd., Bailey Road Patna.
2. The Managing Director, South Bihar Power Holding Company Ltd., Bailey Road, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Raj Shekhar, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate

Mr. Vijay Kumar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-02-2017

It is submitted by the learned counsel for the petitioner that the petitioner retired on 30th of June, 2009 from the post of Electrical Executive Engineer, Electric Supply Division, Ekangarsarai. However, the respondents are paying only 90% amount of pension and gratuity to the petitioner and 10% amount of the pension and gratuity have been illegally withheld by them.

2. In reply, learned counsel for the South Bihar Power Holding Company Ltd. submitted that during service period



in the year 2002, a vigilance case vide Vigilance P.S. Case No. 2 of 2002 was instituted against the petitioner in which after investigation charge-sheet was submitted against the petitioner and the trial of the petitioner is still pending before the court of competent jurisdiction. He submitted that in view of Rule 43(c) of the Bihar Pension Rules, the petitioner is not entitled to receive full pension and the admissible payment of 90% pension and gratuity has already been made to him.

3. I have heard learned counsel for the parties and perused the record.

4. The relevant Rule 43(c) of the Bihar Pension Rules reads as under:-

“43(c)- Where the departmental proceeding or judicial proceeding, in which the prosecution has been sanctioned against such servant, initiated during the service period of the government servant, is not concluded till the retirement of the government servant, the amount of provisional pension shall be less than the maximum admissible amount of pension but shall in no case be less than 90 % (ninety percent).”

5. From a reading of the aforesaid Rule 43(c) of the Bihar Pension Rules, it would be evident that an employee against whom a criminal case is pending would be entitled to full pension.



There is no dispute to the fact that the petitioner is facing a criminal prosecution. There is also no dispute to the fact that provisional pension is being paid to the petitioner and payment of only 10% amount of pension and gratuity has been withheld by the respondents.

6. In view of the express provision prescribed under Rule 43(c) of the Bihar Pension Rules, I see no illegality in the impugned action of the respondents whereby 10% pension and gratuity has been withheld.

7. Accordingly, the writ application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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