

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1926 of 2016
IN
Civil Writ Jurisdiction Case No. 18559 of 2015**

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1. Nirmal Prasad Son of Late Dev Kumar Thakur resident of village + P.O.
Karada Basantpur, P.S. Mufassil Ara, District - Bhojpur

.... Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate, Kaimur at Bhabhua
3. The Consolidation Officer, Kudra, Kaimur, Bhabhua
4. The Deputy Director, Consolidation, Rohtas at Sasaram
5. The District Provident fund Officer, Kudra, Kaimur, Bhabhua

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ujjwal Kumar Sinha, Advocate

For the Respondent/s : Mr. Md.Khurshid Alam-AAG-12
Mr. Fakhruddin Ali Ahmad, AC to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-07-2017

Seeking exception to an order dated 17.9.2016 passed
by the learned Writ Court in C.W.J.C. No.18559 of 2015, this appeal
has been filed under Clause 10 of the Letters Patent.

Petitioner joined the service in the year 1972 and on
attaining the age of superannuation retired on 30th of November,
2013. As his pensionary claims, including provident fund and other
dues, were not settled, the writ petition in the case was filed.

It seems that for the period from 31.5.2001 to
31.10.2003 petitioner was on leave and some dispute with regard to
regularization of this period was pending consideration and since the



question of payment of pension for this period was a dispute, the learned Writ Court refused to interfere into the matter. However, while doing so, the learned Writ Court did not take note of the fact that even after excluding the aforesaid period, the petitioner would be entitled to some pension and even this was not paid. At least a direction should have been issued for considering the case of the petitioner for grant of pension for the undisputed period. To that extent, the relief should have been granted to the petitioner.

That being so, we direct that on the petitioner filing a representation, claiming pensionary claims as per Rule and is entitled after excluding the disputed period which is pending regularization, the right of the petitioner to receive pensionary or post retiral benefits for the remaining undisputed period be settled now within three months from the date of receipt/production of a copy of this order.

With the aforesaid, this appeal is disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

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