IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18650 of 2014

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Pratyush Kumar Mishra, Son of Late Dr. Bipul Kumar Mishra, Resident of Rajendra Nagar, Road No. 8, P.S. Kadam Kuan, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Department of Health, Government of Bihar, Patna.
3. Director in Chief, Health Services, Government of Bihar, Patna.
4. The Civil Surgeon cum Chief Medical Officer, Nalanda Medical College & Hospital, Patna.
5. The Superintendent, Nalanda Medical College & Hospital, Patna.
6. The Principal, Nalanda Medical College & Hospital, Patna.
7. The District Provident Fund Officer, Patna.
8. The Accountant General, Bihar, Patna. .... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Prakash Verma, Advocate

For the Respondent/s : Mr. Parijat Saurav, AC to AAG-10

For Accountant General : Mr. Ram Yash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 04-10-2017

Heard learned counsel for the petitioner, State and Accountant General.

2. In terms of order dated 19.09.2017, a supplementary counter affidavit has been filed on behalf of respondent no.6. In para 6 onwards, inter alia, it has been stated that arrears of pay for the period 01.06.1997 to 20.06.1999 amounting to Rs.3,47,848/- has been paid to the petitioner on 10.07.2017. With regard to the claim of group insurance, it is stated that a sum of Rs.2,66,646/- has been sanctioned vide office letter no.2717 dated 12.09.2017 and banker's cheque was drawn ready and the petitioner was intimated through letter dated 21.09.2017 as well as telephonically on his mobile phone number to collect his cheque. So

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far as General Provident Fund is concerned, it is stated that application in proper format was received from the petitioner for final withdrawal, which was forwarded to the office of Principal Secretary, Health Department, Bihar, Patna on 12.08.2017. With regard to unutilized leave encashment, it has been stated that Health Department vide Memo No. 801 (2) dated 30.08.2017 has already issued necessary sanction order for payment of unutilized earned leave, equivalent to 240 days. With regard to rest post retiral benefits, statement is vague that the petitioner has submitted his application on 20.07.2017 for pension, which was incomplete, and as such the petitioner was communicated to do the needful, but there is total non-cooperation on the part of the petitioner. In para 7 of the counter affidavit, it is stated that rest retiral benefits have to be sanctioned by the Health Department, Government of Bihar and thereafter the authority slip for payment is to be made by the Accountant General Office, Bihar, Patna.

3. Pension is not a bounty, it is a right and every authority is obliged to take step to ensure payment of post retiral dues at the earliest. The State Government has issued guidelines for expeditious disposal of death-cum-post retiral dues of its employee, but in reality they are reluctant in discharging their role towards finalization of death-cum-post retiral dues. The instant case is one of such example of recalcitrant attitude of the respondents.

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4. This writ application is pending for last three years and despite several orders passed by this Court on one or the other pretext the death-cum-post retiral dues have not been paid to the employees.

5. Under the compelling circumstances, this Court is constrained to direct the Principal Secretary, Department of Health, to see that all the death-cum-post retiral and other admissible dues to the petitioner is paid within a period of four months from the date of production of a copy of this order. He shall also fix responsibility on erring officer for delay in disposal of death-cum-post retiral and other admissible dues. It is made clear that if the admitted dues are not paid within a period of four months from the date of production of a copy of this order, the death-cum-post retiral and other admissible dues will carry interest at the rate of 9% per annum from the date of its accrual till the date of payment, which shall be borne out from the pocket of the erring officer.

6. With the aforesaid observations and directions, this application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
Transmission Date	

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