

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5195 of 2014

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1. Ishwar Prasad S/O Balam Mahto Resident Of Village- Dhandhar, P.S- Wazirganj, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Department Of Education, New Secretariat, Patna, District- Patna.
2. The District Education Officer, Gaya, District- Gaya.
3. The District Superintendent of Education, Gaya, District- Gaya.
4. The Accountant General, Bihar, Patna Birchand Patel Marg, Patna-1

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Sinha, Adv.
For the Respondent/s : Mr. Sajid Salim Khan, SC-25
Mr. Sanjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-02-2017

The instant writ application has been filed by the petitioner for a direction to the respondents to make payment of pensionary benefits under different heads after giving benefit of 6th pay revision and also for payment of arrears of salary.

2. The petitioner retired from service on 28th February, 2006 on attaining the age of superannuation as an Assistant Teacher from Rajkiya Madhya Vidyalaya, Bichha, Wazirganj, Gaya. After retirement he filed writ application being C.W.J.C. No. 4868 of 2008 for payment of his retiral dues, which was disposed of by this Court vide order dated 20th May, 2010 along with analogous cases with an observation that the petitioner may file representation before the



authority concerned, who shall dispose of the same within a period of six months.

3. Thereafter, the petitioner filed his representation before the District Superintendent of Education, Gaya, but since the same was not disposed of as directed by this Court, a contempt application was also filed vide MJC No. 2748 of 2012 in which a show cause was filed on behalf of the State stating therein that in compliance with the order of this Court the admitted dues have been paid and the claims which were found not admissible were communicated to the petitioner as per letter no. 4554 dated 30th December, 2011. After the said show cause filed on behalf of the State in the contempt application, the MJC application was disposed of observing that if any grievance of the petitioner has been left out, it would be open for him to bring it to the notice of the authority concerned for consideration.

4. The contention of the petitioner is that after disposal of the contempt application, the petitioner filed a detailed representation before the District Education Officer, Gaya on 30th November, 2013 for payment of remaining dues including revised pension, gratuity etc. but the respondent authority sat over the same. They neither disposed of the representation nor did they pay the dues of the petitioner.

5. The State has filed its counter affidavit wherein it has been stated that as the petitioner superannuated on 28th February, 2006



in the scale of Rs. 5000-150-8000 and had been lastly receiving salary of Rs.6,350/- in the said pay scale, his gratuity has been sanctioned by the Accountant General, Bihar as well as amount of leave encashment has been paid by the concerned drawing and disbursing officer on the basis of his last basic pay. It is stated that as per resolution no. 630 dated 21st January, 2010 issued by the Finance Department, Bihar, the said pay revision has been made notionally applicable with effect from 1st January, 2006 and the actual monetary benefit has been given to the employee with effect from 1st April, 2007.

6. It is submitted by the learned counsel for the State that since the petitioner retired on attaining the age of superannuation on 28th February, 2006, he is not entitled for difference of leave encashment in the revised pay scale. He also submitted that in view of the Finance Department Resolution No. 774 dated 20th May, 2013 gratuity would be admissible on the basis of pre-revised pay scale to the employees who retired in between 1st January, 2006 and 1st April, 2007. He submitted that in that view of the matter, the petitioner is not entitled for difference of gratuity in the revised pay scale.

7. Having perused the record and heard the parties, I find substance in the argument of the learned counsel for the State. After his retirement on 28th February, 2006, the petitioner is not entitled to receive leave encashment and gratuity in the revised pay scale in view



of the aforesaid resolutions of the Finance Department dated 21st January, 2010 and 20th May, 2013.

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

(Ashwani Kumar Singh, J)

Pradeep/-

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

