

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18999 of 2015

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Ram Naresh Roy aged about 61 years, Son of Late Hari Bansh Roy, resident of C/o Engineer Arun Kumar, House No.8, Nandan Puri, Khajpura, Police Station Rajiv Nagar, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Vishwesharaiya Bhawan, Patna.
2. The Engineer-in-Chief, Road Construction Department, Vishwesharaiya Bhawan, Patna.
3. The Principal Secretary, Finance Department, Old Secretariat, Patna.
4. The Managing Director, Bihar State Bridge Construction Corporation Limited, 6 Mangles Road, Patna.
5. The Principal Secretary, Rural Works Department, Vishwesharaiya Bhawan, Patna.
6. The Engineer-in-Chief, Rural Works Department, Vishwesharaiya Bhawan, Patna.
7. The District Magistrate, Samastipur.
8. The Deputy Development Commissioner, Samastipur.
9. The Senior Project Engineer, Bihar State Bridge Construction Corporation Limited, Muzaffarpur.
10. The Treasury Officer, Aurangabad.
11. The Accountant General (Accounts and Entitlement), Bihar, Patna, Birchand Patel Path, Patna.
12. The Director Provident Fund, Patna.
13. The District Provident Fund Officer, Aurangabad.
14. The Executive Engineer, Road Division, Road Construction Department, Aurangabad.
15. The Block Development Officer Mohanpur Block, Samastipur.
16. The Block Development Officer Vidyapati Block, Samastipur.
17. The Executive Engineer, National Highway Division, Road Construction Department, Gopalganj.
18. The Executive Engineer, National Highway, Patna West, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rupak Kumar, Advocate
For the Accountant General	:	Mr. Rabindra Nath Priyadarshi, Advocate
For the Respondents No. 4 & 9	:	Mr. Gautam Sinha, Advocate
For the State	:	Mr. Raj Kishore Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the petitioner; State;



Accountant General and respondents no. 4 and 9.

2. The petitioner has moved the Court for the following relief:

“ That this writ application is filed for issuance of writ in the nature of mandamus directing the respondents to pay 100% pension, 100% gratuity, full leave encashment, general provident fund amount and group insurance amount with statutory and penal interest by updating the service book/records of the petitioner.”

3. The petitioner having superannuated from the post of Junior Engineer under the Road Construction Department on 30.11.2014, has been paid various amounts during the pendency of the writ application and details of the same have been brought on record in the second supplementary counter affidavit filed on behalf of respondent no. 14. From the same, it transpires that the dues have been paid. However, with regard to whether actual payment has been made or not, on a query to learned counsel for the respondents, they have produced the written statement of the petitioner in which after accepting the payments, he has written that he is satisfied with the amount paid. Be that as it may, if actual payment has not been made to the petitioner, the same is required to be done forthwith.

4. Learned counsel for the petitioner submitted that because of there being delay in payment, as the same has taken more



than two years, the Court may grant interest, for which he relied upon the decisions of the Hon'ble Supreme Court in the case of **A. Sulekha v. N.A. Das** reported as (2006) 13 SCC 399 and **State of U.P. v. Dhirendra Pal Singh** reported as (2017) 1 SCC 49.

5. On a query of the Court to learned counsel for the concerned respondents as to why there was delay in payment, he submitted that the petitioner has worked under different authorities and his service book had not been updated and, thus, the authorities had to take personal interest in the matter and with co-operation from the petitioner, the same having been made available, payments have been made.

6. At this juncture, learned counsel for the petitioner submitted that in the year 1998, when he had come back to the parent department after being on deputation, his Last Pay Certificate was not sent and he was getting salary in the lower scale, for which he kept representing.

7. Having considered the matter, the Court finds that the petitioner being a Junior Engineer, is expected to be aware of the requirement that service book and Last Pay Certificate are required for the service records to be completed and when admittedly in the year 1998, the Last Pay Certificate had not been issued and less salary was being paid, and till the time he superannuated in



November, 2014, he not agitating the matter before the Court, clearly indicates that there is contributory negligence and laches on his part also, as being an informed senior officer, it was incumbent that he got the service record straight and completed and there cannot be any justification for having waited for 17 years till his superannuation to raise the issue in the present writ application.

8. In view of the fact that payments have been made, the Court is not persuaded to grant any interest.

9. Accordingly, the writ petition stands disposed off.

10. However, if the petitioner feels that any amount still remains unpaid or there is some error in calculating the amount, he shall be at liberty to file a detailed representation pointing out such error/mistake before the respondent no. 2, with materials in support of his claim. Upon the same being filed, the respondent no. 2 shall look into the matter and dispose off the representation by passing a reasoned order. If anything further is required to be paid in terms of such order, the same shall be paid within one month from the date of passing of the order by respondent no. 2. However, if actual payment in terms of the sanction orders/authorities issued has not been made to the petitioner, the same be done within two weeks from the date of production of a copy of this order before the respondent no. 10.

11. Further, the pensionary benefits are now required to



be revised on account of the petitioner having been granted the benefit of A.C.P. If the same has not been done, the benefits shall be calculated and paid to the petitioner within one month from the date of production of a copy of this order before the respondent no. 14.

(Ahsanuddin Amanullah, J.)

P. Kumar

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