

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16117 of 2016

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Jai Mangal Bhagat @ Jai Mangal Bhakta Son of Late Police Bhagat Resident
of village - Abhuchak, P.S. Saraiya, P.O. Vaishali, District - Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar
2. The District Magistrate, Muzaffarpur
3. The Block Development officer, Kurhani, Muzaffarpur
4. The Accountant General, Govt. of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nachiketa Jha
For the State	:	Mr. Ranjay Kumar Singh, AC to SC 6
For the A.G.	:	Mr. Anjani Kumar Sharna

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 19-08-2017 The petitioner retired with effect from 29.02.2016 as Panchayat Secretary from the Office of the Block Development Officer, Kudhani, in the district of Muzaffarpur. It is his grievance that he has not been paid his post retiral benefits.

A counter affidavit has been filed on behalf of the State of Bihar stating, *inter alia*, that a disciplinary proceeding is going on against the petitioner, which was initiated with issuance of letter, dated 17.02.2016. It has also been stated that since the petitioner retired during the pendency of the departmental proceeding, the proceeding so initiated has been converted into a proceeding under Rule 43 (b) of the Bihar Pension Rules. It has also been stated, in the counter affidavit, that the petitioner



has been directed to submit necessary papers relating to his pension, but, till date, no such paper has been submitted. According to the respondents, the petitioner is entitled for 75 per cent of total pension during the pendency of the proceeding under Rule 43 (b) of the Bihar Pension Rules.

On the question of payment of earned leave and group insurance, amounting to Rs. 66,728/- and Rs. 4,34,480/-, it has been stated that the same has been sanctioned for payment to the petitioner on 26.11.2016 itself. It is the case of the respondents that the amount of gratuity cannot be paid during the departmental proceeding in accordance with Rules 43 of Bihar Pension Rules.

Learned Counsel appearing on behalf of the petitioner has, however, submitted that even the amount of earned leave and group insurance have not been paid so far. It is also his contention that though the petitioner has submitted all papers for payment of pension/provisional pension, no action has been taken to ensure that the said amount is paid to the petitioner.

In the facts and circumstances of the case, I dispose of this writ application with following observations and directions:

(i) The District Magistrate, Muzaffarpur, is directed to ensure that the amount of earned leave and group insurance are



paid to the petitioner within a period of two weeks from the date of receipt/production of a copy of this order.

(ii) As regards payment of pension/provisional pension, during the pendency of the proceeding, under Rule 43 (b) of the Bihar Pension Rules, the District Magistrate, Muzaffarpur, shall ensure that the petitioner starts getting the said amount forthwith. The petitioner shall, for the said purpose, appear before the District Magistrate, Muzaffarpur, along with a copy of this order, on 25.08.2017. If any papers are required to be submitted by the petitioner, the petitioner shall be informed by the District Magistrate, Muzaffarpur, accordingly, to ensure that the petitioner starts getting 75 per cent of the pension amount.

(iii) I am not commenting upon the power of the sanctioning authority to withhold gratuity for the present on the ground of pendency of a proceeding under Rule 43 (b) of the Bihar Pension Rules. However, I direct that the said proceeding should not be allowed to continue for indefinite period and must conclude within a period of six months from the date of receipt/production of a copy of this order.

(iv) If the respondents fail to conclude the proceeding under Rule 43 (b) of the Bihar Pension rules, within the period stipulated under the orders of this Court, the petitioner shall be



paid full gratuity and full pension immediately thereafter.

(v) The Court expects the petitioner to co-operate with the proceeding under Rule 43 (b) of the Bihar Pension Rules, However, if he does not co-operate in the proceeding, the competent authority shall be entitled to pass appropriate orders in accordance with law.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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