

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2650 of 2016

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Devendra Prasad Singh son of Ram Govind Singh, resident of village- Kopgarh,
Block- Tariyani, P.S.- Tariyani, District- Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate Sheohar.
3. The District Panchayat Officer, Sheohar.
4. The District Accounts Officer Sitamarhi.
5. The District Accounts Officer Sheohar.
6. The Block Development Officer, Tariyani, District -Sheohar.
7. The Accountant General (A&E), Birchand Patel Path, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Advocate
For the State : Mr. Shailesh Kumar, A.C. to G.P.-5
For the Accountant General : Mr. Ramyash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-03-2017

In the present writ application the petitioner has prayed for condonation of deficiency of less than a month service for allowing full pension to the petitioner.

2. It is submitted by the learned counsel for the petitioner that an employee becomes eligible to receive full pension after putting on twenty years of service. The petitioner was appointed as 'Dalpati', was selected as a 'Panchayat Sewak' and joined the service as such on 4th October, 1994. He retired on completion of age of superannuation on 30th September, 2014. He submitted that since the petitioner put in few days less than twenty years, he being paid *pro rata* pension



instead of full pension. He submitted that as the sanctioning authority is vested with the power to condone deficiency of three months under Rule 106 of the Bihar Pension Rules, 1950 (for short 'the Pension Rules'), the petitioner filed a representation before the District Magistrate, Sheohar on 17.01.2015 for condonation of deficient days, but no order has been passed till date.

3. On the other hand, learned counsel for the State submitted that the case of the petitioner has been considered and the admissible amount of pension and gratuity has already been sanctioned, which has duly been authorized by the Accountant General, Bihar, Patna pursuant to which the petitioner is being paid pension on *pro rata* basis, as he has not completed twenty years of service. He submitted that in view of the express provision of law, the petitioner is not entitled to receive full pension.

4. Learned counsel for the Accountant General, Bihar, Patna submitted that it is not a case where Rule 106 of the Pension Rules can be invoked, as the said rule speaks about condonation of deficiency of service in order to make a person eligible to receive pension. He submitted that the said rule has no application to the facts of the present case.

5. Be that as it may, since the contention of the petitioner is that a representation is pending before the District Magistrate,



Sheohar in terms of Rule 106 of the Pension Rules, it is for the District Magistrate, Sheohar to take a decision on it. He cannot sit tight over the matter for an indefinite period.

6. At this stage, learned counsel for the State submitted that he has no instruction as to whether or not any representation is pending before the District Magistrate, Sheohar.

7. Having considered the submissions made on behalf of the parties, the writ application is disposed of with a direction to the petitioner to file a fresh representation along with a copy of the order within a period of four weeks before the District Magistrate, Sheohar raising his claim. In case of filing of such representation, the District Magistrate, Sheohar shall be required to examine the claim of the petitioner and pass a reasoned order as early as possible, but in no case later than two months.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
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