# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.13681 of 2014**

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Babu Nand Prasad Sharma son of Late Ram Sharan Prasad Sharma, resident of village + P.O.- Jaitapur, P.S.- Ramgarhwa, District- East Champaran at Motihari.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, East Champaran at Motihari.
3. The District Programme Officer ( Establishment), Motihari, District- East Champaran.
4. The District Treasury Officer, Motihari, District- East Champaran,
5. The Accountant General ( A & E), Bihar, Patna Patel Path, Patna-1

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shyama Kant Singh, Advocate
For the State : Mr. Chandra Shekhar Singh, A.C. to G.A.-10
For the Accountant General : Mr. Binod Kumar Labh, Standing Counsel, IA & AD

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

ORAL JUDGMENT

**Date: 07-04-2017**

The instant writ application has been filed by the petitioner for payment of difference of pay from September, 2007 to December, 2013 amounting to Rs.71,052/- and correction in the name of the petitioner's wife in Pension Payment Order Book.

**2.** It is submitted by the learned counsel for the petitioner that the petitioner, an Assistant Teacher, retired on attaining the age of superannuation on 31.08.2007. At the time of retirement, he was posted at Primary School Lakshawnauta, Block Raxaul, East Champaran. Immediately, After retirement, he was paid all his retiral benefits, but an amount of Rs.71,052/- has illegally been withheld by the respondents without disclosing any reason for such withholdment.

**3.** A counter affidavit has been filed on behalf of the Accountants General, Bihar, Patna wherein it is stated that immediately after receiving the sanction order, the office of the Accountant General, Bihar, Patna authorized the pension and other retiral benefits of the petitioner. It is further stated that so far as correction of petitioner's wife name as Smt. Sheomati Devi instead of Smt. Sheomani Devi is concerned, a letter vide no. Pen-10-G-519-20 dated 22.07.2014 has already been written to the Treasury Officer, Motihari for correction in the name of the petitioner's wife under intimation to the petitioner.

**4.** A counter affidavit has also been filed on behalf of respondent no.4 wherein it is stated that considering the grievance of the petitioner regarding non-payment of Rs.71,052/- a letter was sent on his address on 04.12.2014 and he was requested to appear personally along with pension book to explain the matter. A reminder was also sent to him on 19th December, 2016 requesting him to come along with pension book so that his grievance may be resolved. However, after perusal of the pension book, it was found that the amount for which authority had been issued by the Accountant General, Bihar, Patna has already been sent to the bank after passing the bill for payment on 14th May, 2011. In respect of correction in the name of the petitioner's wife in pension book, the stand of the respondent no.4 is that the required correction is to be made by the Accountant General, Bihar, Patna.

**5.** I have heard learned counsel for the parties and perused the record.

**6.** It would be evident from the pleading of the parties that though the petitioner retired on attaining the age of superannuation on 31.08.2007 and his retiral benefits were paid immediately after his retirement, the claim in respect of non-payment of Rs.71,052/- has been raised before this Court by filing the present writ application for the first time on 07.08.2014. The stand of the State as well as the Accountant General, Bihar, Patna is that whatever amount was due to the petitioner had been sanctioned and authorized long back and payments have already been received by him. Though the petitioner claims non-payment of Rs.71,052, there is no clarity regarding the head under which lesser payment has been made. There is no document to support the claim of withholdment of the amount. The allegation of non-payment is based only on the basis of oral version of the petitioner, which is completely denied by the State.

**7.** As the claim is not admitted, in the considered opinion of this Court, no mandamus can be issued in favour of the petitioner. The disputed claim can only be adjudicated by leading evidence before a civil court of competent jurisdiction in a properly instituted suit.

**8.** So far as the grievance of the petitioner in respect of rectification in the name of his wife in the P.P.O. Book is concerned, the grievance appears to be *bona fide*. In that view of the matter, I direct the petitioner to approach the respondent no.4 within a period of four weeks from today and file a representation for rectification in the name of his wife in the P.P.O. In case such a representation is filed, it will be the responsibility of the respondent no.4 to set right the error in the name of wife of the petitioner within four weeks.

**9.** With the aforesaid observations and directions, the writ application is disposed of.

**(Ashwani Kumar Singh, J)**

Md.S./-

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