

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7364 of 2016

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Udai Narain Thakur, aged about 64 years, son of Late Chhotak, Thakur, resident of Village- Gangauli, Police Station- Simri, District- Buxar.

.... Petitioner/s

Versus

1. The Union of India through Department of Personnel and Training, Government of India, New Delhi.
2. The State of Bihar through Principal Secretary, Department of General Administration, Government of Bihar, Patna.
3. The Officer on Special Duty, General Administration, Government of Bihar, Patna.
4. The Accountant General Bihar, Birchand Patel Path, Patna.
5. The State of Jharkhand through Principal Secretary, Department of General Administration, Government of Jharkhand having office at New Secretariat, Ranchi.
6. The Director General of Police, State of Jharkhand, Ranchi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate
Mr. A.K.Karna, Advocate

For the State : Mr. Niraj Kumar Sinha, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-02-2017

O.A.No. 844 of 2011 was filed by the petitioner before the Central Administrative Tribunal, Patna Bench, Patna for a direction upon the respondent-State of Bihar to release the entire gratuity amount, sanction 100% pension and also allow commutation of pension. The O.A. application was heard and dismissed vide order dated 16th of December, 2015, therefore, the writ application.

Submission of the learned counsel for the petitioner is



that a reading of Rule 6(1) of All India Service (Death-cum-Retirement Benefits) Rules, 1958 would show that the allegation, if any, against a Government servant must relate to the period of service, for his conduct 'in service' under the respondents. According to him, the service herein would mean service as an IAS Officer and not the previous service of a Bihar Administrative Service (BAS). If Rule 6(1) is applied, Rule 6(2) has no role to play.

It is also urged that an FIR was lodged way back in the year 2000. There was a departmental enquiry also into the so called charges and allegations. The Divisional Commissioner exonerated the petitioner, therefore, the pendency of the criminal case is only a formality and for all practical purposes the petitioner should be treated as having come clean on the issue.

The fallacy of the argument so far as the first submission is concerned, is that the period of service as BAS Officer is integral to the Indian Administrative Service, the post on which the petitioner was promoted was due to the length of service as a BAS Officer and even the pension, gratuity, etc. will be counted and paid for the entire length of service and not limited to the period of service as an IAS Officer. The dichotomy which the petitioner is seeking to create is a submission which is required to be negated.

The second submission with regard to his exoneration in



the departmental enquiry is of no avail because scope of departmental enquiry, appreciation of evidence, etc. are totally different from the one which is required to be placed or appreciated by a criminal Court in trial.

The core facts are that way back in the year 2000 a criminal case was instituted against the petitioner. After a long investigation, prior to the superannuation of the petitioner on 30th of April, 2011, charge sheet came to be filed on 26.10.2009 and supplementary charge sheet on 30th of July, 2010. Filing of a charge sheet therefore, is a step closer towards prima facie, a case having been made out against the petitioner and the stage of mere allegation or insinuation on the institution of FIR was over.

If there is a criminal case pending against the petitioner in which sanction for prosecution has been granted on 27th of October, 2011, then Rule 6(2) will come into play and awaiting the final out come of the criminal court proceedings, gratuity can be withheld as a temporary measure.

The Tribunal after taking note of the long drawn out arguments as well as after considering the provisions of the Rules, governing such withholding, has rejected the prayer of the petitioner for release of gratuity, etc. and the Court is of the opinion that such rejection of prayer cannot be said to be misplaced or erroneous



keeping in view the entire facts coupled with the provisions of the Rules which will come into play.

The Court therefore, refuses to interfere with the order of the Tribunal under challenge. It can only observe and opine that the petitioner will be entitled to claim his gratuity no sooner the criminal case is either brought to rest or the proceedings are annulled by any superior judicial forum.

The writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

S.Pandey/-

(Nilu Agrawal, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	02.03.2017
Transmission Date	

