

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15941 of 2012

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1. Jagdish Prasad S/O Late Ganga Mahto Resident of Village Tarokhar, P.O. And
P.S. Giriyak, District Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Secondary Education, Bihar, Patna
3. The District Education Officer, Nalanda
4. The Senior Accounts Officer, (A & E) Office of the Accountant General, Bihar,
Veer Chand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mohan Singh, Adv.
For the State : Mr. K.P. Gupta, GP-10
For Accountant General : Mr. Ranjan Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-02-2017

Pursuant to the order dated 30th January, 2017, Mr. Md.

Shafi Ahmad, District Education Officer (for short 'D.E.O.'),
Nalanda has appeared before the Court. A show cause on his behalf
has also been filed.

2. Having heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Accountant General,
Bihar, and having gone through the explanation submitted by the
D.E.O., Nalanda, the show cause filed on his behalf is accepted.

3. The instant writ application has been filed by the
petitioner for payment of benefits due to revision of pensionary
benefits, leave encashment, arrears of salary for the suspension period
and promotion in the super time scale.



4. The petitioner retired from the post of Headmaster of Congress High School, Dasrathpur on 31st July, 2003. The pensionary benefit of the petitioner was authorized treating the suspension period with effect from 17th September, 1985 to 3rd March, 1990 as non-qualifying service. He was granted 112 days of unutilized earned leave encashment. Since a criminal case was instituted against him, the matter relating to grant of super time promotion benefit was kept in abeyance. Later on, vide judgment dated 17th November, 2011 passed in Cr.Appeal No. 438 of 1989 the petitioner was acquitted of the charges in the criminal case.

5. The respondents considered the case of the petitioner and allowed him payment of arrears of salary for the period of suspension vide order dated 25th November, 2015. The Director, Secondary Education, Bihar, Patna vide order dated 25th November, 2015 issued an order granting selection grade scale to the petitioner.

6. Learned counsel for the Accountant General submitted that on receipt of the service book of the petitioner, his pay has been revised for the post of Headmaster and pay slip has already been issued. He submitted that difference of encashment of unutilized earned leave has also been authorized as per revised pay vide authorities issued on 6th February, 2017 payable at Nalanda Treasury. He submitted that on regularization of suspension period, revised unutilized earned leave for additional 49 days has been reported to the



Education Department, Bihar, Patna for necessary sanction and on receipt of the sanction order, the difference amount of unutilized earned leave will be authorized at the earliest. He submitted that authority for revised pension and gratuity has also been issued in favour of the petitioner on 3rd February, 2017.

7. After looking into the contents of the supplementary counter affidavit filed on behalf of the Accountant General, Patna and the submissions made by the learned counsel appearing on his behalf, learned counsel for the petitioner submitted that now the grievances of the petitioner is confined to payment unutilized earned leave encashment for 49 days and grant of selection grade scale to the petitioner in the light of the order dated 25th November, 2015 passed by the Director, Secondary Education, Patna vide letter no. 3396 dated 25th November, 2015.

8. On the aforesaid submission of the learned counsel for the petitioner, learned counsel for the State submitted that since all the grievances of the petitioner have been redressed, the writ application may be disposed of with a direction to the respondents to sanction the leave encashment of unutilized earned leave of 49 days and to take a decision on the issue of entitlement of any amount which may be payable to the petitioner on grant of selection grade scale to him.

9. Having heard learned counsel for the parties and perused



the record, the respondents no.2 and 3 are directed to issue sanction order for additional 49 days unutilized earned leave within four weeks from today. Once the sanction order in respect of additional 49 days of unutilized earned leave is issued and communicated to the Accountant General, Bihar, Patna, the Accountant General shall be obliged to issue order of authority for payment of the amount within four weeks.

10. So far as the claim of the petitioner regarding entitlement of pension in the selection grade scale is concerned, the petitioner is directed to file a representation before the authorities concerned within three weeks from today. In case of filing of such representation, the State respondents shall decide the same within two months and in case the petitioner is found entitled to receive any amount, the same should also be paid within the aforementioned period.

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

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21-2-2017
Transmission Date	

