IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1241 of 2017

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Narendra Kumar, Son of Late Laldev Singh, Resident of Village- Daniyala, P.O.- Shadipur, P.S.- Karpi, District- Arwal, (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Human Resources Department, Government of Bihar, Patna.
3. The District Collector, Arwal.
4. The District Education Officer, Arwal.
5. The Treasury Officer, Arwal.
6. The Accountant General, Birchand Patel Path, Bihar, Patna.
7. The Account Officer, Accountant General Office, Birchand Patel Path, Bihar, Patna.
8. The Branch Manager, Bank of India, Arwal.
9. The Pension Officer, Bank of India, Arwal.
10. Tilka Manjhi Bhagalpur University, Bhagalpur through its Registrar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr. Ajay Kumar Sharma, AC to AG
For Respondent No.8 & 9 : Mr. Nishi Nath Ojha, Advocate
For Accountant General : Mr. Uday Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date: 06-12-2017

Heard learned counsel for the petitioner, State and Accountant General as well as Mr. Ojha, counsel appearing for the Bank.

2. Counsel for the petitioner submits that the writ petitioner retired on 31.05.2013. After superannuation, he was getting pension. Suddenly, one writ application (C.W.J.C. No. 3512 of 2016) was filed by one Ramchandar Prasad Singh with whom the petitioner has land dispute (T.S. No. 144 of 2012), which is pending.

3. It is seen that Annexure-1 is passed only on the basis of filing of a writ application by one Ramchandar Prasad Singh and the interested Account Officer of the office of Accountant General, Bihar, Patna issued direction to the Treasury Officer, Arwal to stop payment of pension with immediate effect. Curiously enough, in the letter dated 17.11.2016, the Account Officer while directing stoppage of payment of pension has not even mentioned the number of writ application what to talk of any order passed by the Writ Court in such writ application and such exercise of power by the office of Accountant General is against all known principles of law. The order contained in Annexure-1 is totally without jurisdiction.

4. In the present case, the counter affidavit has been filed on behalf of Accountant General, appears to be filed by the author of Annexure-1, who has now filed counter affidavit enclosing Annexure-B where he sought informant from the District Education Officer, Arwal vide letter dated 22.02.2017 so that appropriate action may be taken in the matter of pension of the petitioner. Supplementary counter affidavit has also been filed on behalf of the same Account Officer enclosing Annexure-C dated 28.02.2017 whereby the District Education Officer, Arwal has informed the Senior Account Officer, Accountant General Office, Patna that Prapatra ‘Ka’ has been framed against the petitioner and action has

been initiated under Section 43(b) of the Bihar Pension Rules. Before taking any decision under Section 43(b) of the Bihar Pension Rules, stoppage of pension of the petitioner is without jurisdiction. If ultimately, the respondents found the petitioner guilty in a proceeding under Section 43(b) of the Bihar Pension Rules, they are free to take appropriate decision in terms of the Bihar Pension Rules, but till such decisions are taken, they have no jurisdiction to stop the pension payable to the petitioner.

5. Accordingly, the writ application is allowed. The order contained in Annexure-1 is quashed. The respondents are directed to release the pension within a period of 15 days from the date of receipt/production of a copy of this order and ensure payment of pension till the final decision of the proceedings under Section 43(b) of the Bihar Pension Rules. In view of the above, all concerned including the Bank authorities are directed to take steps to ensure payment of the pension of the petitioner forth with.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2017
Transmission Date	NA