

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12995 of 2016

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Shekhar Viswas @ Shikhar Biswas Son of Late Harishchandra Vishwas resident of
Kalibari, P.S. Katihar Town, District Katihar

.... Petitioner/s

Versus

1. The State of Bihar represented through the Secretary, Road Construction
Department, Government of Bihar, Patna
2. The Deputy Secretary (Vigilance) , Road Construction Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry with
Mr. Mrigank Mauli , Advocates

For the State : Mr. Deepak Kumar, AC to SC 5

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 19-08-2017

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court for the following
reliefs:

*“ 1) By way of this writ application being filed
invoking Article 226 of the Constitution of India,
1950, the petitioner, above named, most humbly
seeks indulgence of this Hon’ble Court by praying
inter alia as under:-*

*a. To issue a writ of certiorari by quashing and
setting aside Annexure-7 i.e. the order dated
3.6.2014{Memo No. 4569 (s)} issued by the*



Respondent No. 2 whereby and whereunder the entire pension of this petitioner was forfeited on account of his conviction in a criminal case;

- b. To restore pension of this petitioner to the extent of 100% as a consequence of setting aside of the above impugned order with other consequential benefits following on account of setting aside of the impugned order;*
- c. Any other relief or relief(s) which the petitioner may be found entitled to in the facts and circumstances of the case.”*

3. In substance, the petitioner seeks quashing of order by which 100% of his pension has been forfeited in view of his conviction in a criminal case, which itself was lodged pursuant to the order passed by the Court.

4. Learned counsel for the petitioner submitted that against the said conviction, he has filed an appeal before this Court which is pending and he has been granted bail in the same.

5. Learned counsel for the State, relying on the counter affidavit filed by him, submitted that under similar circumstances, some persons have moved the Court claiming payment of their forfeited pension in C.W.J.C. No. 13323 of 2009 (**Dr. Bajrang Deo Narayan Sinha Vs. The State of Bihar and Others**) and analogous cases which was dismissed by order dated 05.04.2012 and the same



was also upheld by the Division Bench in L.P.A. No. 919 of 2012 by order dated 05.07.2012.

6. It would be relevant to indicate that copy of the counter affidavit had been filed after service on learned counsel for the petitioner on 17.09.2016 and the Court, on the prayer made by learned counsel for the petitioner, had directed the matter to be listed on 3rd October, 2016, and has been taken up for hearing only today. However, there is no rejoinder filed to the same. Coming to the merits of the matter, the Court does not find any infirmity in the decision taken by the respondents in view of the conviction of the petitioner. Till the time, the said conviction is not set aside and the petitioner not acquitted, no relief can be granted. Such view has also been taken by a co-ordinate Bench of this Court.

7. In view of the aforesaid, and the decision in the case of **Dr. Bajrang Deo Narayan Sinha** (supra) which has been upheld by a Division Bench of this Court, the writ petition stands dismissed. However, in the event the petitioner is acquitted, he may move before the appropriate forum, in accordance with law.

(Ahsanuddin Amanullah, J)

Anjani/-

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