

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.795 of 2017**

**In**

**Civil Writ Jurisdiction Case No.13542 of 2014**

Dr. Jitendra Prasad Singh son of Sri Madhav Prasad Singh at present residing  
at South Road, Amir Chand Kothi, Pakri, P.S. Pakri, District - Arah, Bhojpur  
... .. Appellant/s

**Versus**

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, Patna
2. The Under Secretary, Health Department, Bihar, Patna
3. The Deputy Secretary, Health Department, Bihar, Patna
4. The In - Charge Officer, ( Vai Da. Ni. Cell ), Finance Department, Bihar, Patna
5. The Accountant General, Bihar, Patna

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr. Amit Kumar Anand  
For the Respondent/s : Mr.

**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

5      09-04-2018                      Seeking exception to an order passed by the learned  
  
Writ Court on 3.4.2017 passed in C.W.J.C. No. 13542 of 2014,  
this appeal has been filed under Clause-X of the Letter Patent.  
Petitioner claims revision of pay scale and revision of pension.

In view of the revision of pay ordered by the State  
Government after implementing the revision of pay with effect  
from 1<sup>st</sup> January, 2006, petitioner also claims payment of  
gratuity which has been implemented vide Annexure-6  
Resolution No.774 dated 27.5.2013 retrospectively, in  
application to employees who have retired between the period



from 1.4.2007 to 23.9.2009. The learned Writ Court dismissed the writ petition filed by the petitioner on the ground that the petitioner did not perform duty from 8.8.2002 to 5.6.2008. As far as the period he was working from 1.4.2007 to 23.9.2009. He is entitled to the benefit. While doing so, the Writ Court has lost sight of the fact that even though the petitioner was not performing duties from 8.8.2002 to 5.6.2008, after submitting an application for voluntary retirement on 06.08.2002, his voluntary retirement was accepted vide Memo No. 912(2) dated 06.06.2008 w.e.f. 06.06.2008. For the period from 8.8.2002 to 5.6.2008, he was sanctioned different kinds of leaves in terms of the Government circulars and it has been held that his absence during this period shall be deemed to be regularized by granting him all sorts of leave of different nature and the entire period has been counted as period spent on duty.

In our considered view, once the employee is deemed to have retired on 5.6.2008, he is entitled to revision of pay scale which was brought into force with effect from 1<sup>st</sup> January, 2006 and he cannot be denied, the same on the ground that he has not worked after 8.8.2002, once the period has been regularized by the State Government.

That being so, the petitioner is entitled to revision of



his pay scale and re-fixation of his pension, the difference in pension after his retirement be granted after re-fixation which is brought into force on 5.6.2002 with effect from 1<sup>st</sup> January, 2006. Accordingly, to that extent, the pensionary benefits of the petitioner be recalculated and paid to the petitioner, in view of the fact that once the petitioner is deemed to have been in service for the period from 1.4.2007 to 23.9.2009, then the entire period as indicated hereinabove which has been regularized has to be treated as period spent on duty. The petitioner would be entitled to enhanced gratuity in accordance with the notification (Annexure-6) dated 27.5.2013 and the difference of gratuity should now be paid to him along with the revision of pension as ordered hereinabove within a period of sixty days from the date of receipt of a copy of this order.

With the aforesaid, the appeal stands allowed and disposed of.

**(Rajendra Menon, CJ)**

**( Rajeev Ranjan Prasad, J)**

N.H./ajay gupta/-

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