

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10541 of 2013**

=====

Harendra Kumar Sharma Son Of Late Shrikant Sharma Resident Of Village -  
Chainpur, P.O. And P.S. - Manjhi And District - Saran At Chapra

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Director General Of Police, Bihar, Old Secretariat, Patna
2. The Additional Director General Of Police (Hq), Bihar, Patna - 800015
3. The Additional Director General Of Police, Special Branch, Old Secretariat, Patna - 800015
4. The Inspector General Of Police, Muzaffarpur Zone, Muzaffarpur, Bihar
5. The Superintendent Of Police (Su), Special Branch, Bihar, Patna

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                                                      |
|----------------------|---|----------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Rabindra Kumar Choubey, Advocate<br>Mr. Gopal Pd Singh, Advocate |
| For the State        | : | Mr. Shally Kumari, AC to SC 24                                       |

=====

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 01-11-2018**

Heard counsel for the petitioner and the respondent State.

The petitioner has challenged the order dated 30.08.2012 whereby acceptance of his application for voluntary retirement has been communicated to the petitioner.

The respondent State has filed its counter affidavit in the matter. The specific stand of the respondents is that the petitioner by application dated 17.07.2012 had made a specific request for being allowed voluntarily retirement under the Rules of the State Government. Application has been submitted after stating the fact that petitioner due to his medical condition is not in a position to serve the department any more.

The writ petition has been filed much after the



application for voluntary retirement has already taken effect. Respondents have placed on record the fact that the period 01.06.2012 to 31.12.2012 has already been allowed as earned leave to the petitioner and all the legitimate dues to the petitioner have been paid to the petitioner.

Counsel for the petitioner has relied upon a judgment of this Court in the case of Ganesh Pandey vs. the Bihar School Examination Board in C.W.J.C. No. 10719 of 2004. This Court would find that the facts of this case are different than that in the case of Ganesh Pandey which has been relied upon by the petitioner.

In the instant case the application Annexure 6 dated 17.07.2012 is an application for voluntary retirement with immediate effect. It does not contemplate a subsequent date on which the VRS is to be allowed. There is no application by the petitioner for withdrawing the application for voluntary retirement prior to acceptance of the same on 30.08.2012.

It is trite law that a person has locus poenitentiae to resile from a contract only till such time the same is concluded. In the instant case the petitioner's application for voluntary retirement had been accepted by the authorities. Till such time the same was accepted, no application was made for withdrawing the



same. Clearly the petitioner has no locus poenitentiae today. Even the instant writ proceedings have been instituted roughly nine months after acceptance of his application for voluntary retirement. Clearly there is no case for interference in the instant proceedings

The writ petition is dismissed.  
**(Madhuresh Prasad, J)**

Prakash

|                   |  |
|-------------------|--|
| AFR/NAFR          |  |
| CAV DATE          |  |
| Uploading Date    |  |
| Transmission Date |  |

