

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12203 of 2013

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Awadhesh Singh Son of Late Ram Chandra Singh Resident of Village Lahsuna P.S.
Masaurhi District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Managing Director (M.D.) Bihar State Ware Housing Corporation at 2/B, Mauryalok Complex (1st Floor) Patna- 800001.
2. The Secretary Bihar State Ware Housing Corporation 2/B Mauryalok Complex, Patna.
3. The Divisional Manager Bihar State Ware Housing Corporation Bihar Sharif (Bihar).
4. The Accounts Officer, B.S.W. Corporation Mauryalok Complex, Patna- 1.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pathak, Advocate
For the B.S.W.H.C. : Mr. Sanjay Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 08-03-2018

Heard learned counsel for the petitioner and Bihar State
Ware Housing Corporation Limited (hereinafter referred to as the
'Corporation').

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

*"1. That this is an application, praying for
issuance of a writ /order or direction in the nature of
writ of mandamus, or any other appropriate
writ/order, or direction, commanding the
Respondent to make payment of retrial dues
including the gratuity and leave encashment,
pension and arrears of salary P.F. to the petitioner
which has not yet been paid though the petitioner
has been retired from the services of Bihar State
Ware Housing Corporation, a corporation owned by
the Government of Bihar on 31st of July 2011.*

2. That the petitioner has come to their



Hon'ble Court for the 1st time for the relief sought for here in before and he never moved any such application and earlier occasion on the facts and circumstances stated after."

3. Learned counsel for the petitioner submitted that earlier a departmental proceeding was initiated against him which culminated in an order of recovery being passed against him to the tune of over Rs. 5.7 crores. It was submitted that the petitioner assailed the same in C.W.J.C. No. 11254 of 2017, in which a co-ordinate Bench by judgment dated 15.01.2018, has set aside the order of punishment on the ground that after retirement, no departmental proceeding can be initiated against him. He submitted that the petitioner is, thus, entitled to full pensionary benefits.

4. On a query of the Court as to under which provision he is entitled to such payment by the Corporation, learned counsel is not in a position to show to the Court any such provision.

5. When called upon, learned counsel for the Corporation also was totally unaware of any such provision and could not assist the Court.

6. Right to pension is not a fundamental right and is only as per the policy of the employer. When the Corporation is admittedly an independent and autonomous body, unless it frames any regulation or rule or takes a policy decision for grant of any



pensionary benefits to its employee, the same are neither admissible nor can be claimed as a matter of right before any Court of law. In the present case, neither of the parties have been able to produce any material to show that the Corporation has adopted any policy or taken a decision for payment of post retiral benefits to its employees, which includes the petitioner.

7. In absence thereof, the Court is unable to interfere in the matter and pass any positive order. However, if the co-ordinate Bench has interfered in the order of punishment against the petitioner, it shall be open to him to agitate the matter with regard to consequential benefits arising out of the said order.

8. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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