

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2137 of 2007

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Rajeshwari Prasad Singh, Son of Late Ram Pyare Singh, resident of Mohalla-B-163, Gandhi Vihar, Police Colony, Anisabad, Police Station- Gardanibagh, District-Patna, retired from the post of "Sectional Officer" Crime Investigation Department (C.I.D.), Bihar, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary-cum-Commissioner, Home Department, Old Secretariat, Bihar, Patna.
2. Director General of Police, Government of Bihar, Old Secretariat, Patna.
3. Additional Director General, C.I.D., Bihar, Patna.
4. Inspector General, C.I.D., Bihar, Patna.
5. D.I.G., C.I.D., Bihar, Patna.
6. S.P. (D), C.I.D., Bihar, Patna.
7. D.S.P. (Accounts), C.I.D., Bihar, Patna.
8. Accountant General, Bihar, Office of the Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-05-2018

Heard learned counsel for the petitioner and State.

Nobody appears on behalf of the Accountant General.

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

"That this writ petition is being filed for commanding the respondents to paid the amount of Rs. 1,25,983/- with interest & litigation cost from 1.4.01 to the petitioner in accounts of D.C.R.



gratuity payment order which was passed long back ago i.e. dated 8.1.2003 (Annexure-2 to this petition), authority slip was issued by the office of the Accountant General (A &G) – II, Bihar, Patna or for any relief / reliefs as may be deemed fit and proper.”

3. The respondent authorities had withheld payment of gratuity on the ground that the Pension Rules provide for withholding of entire gratuity during the pendency of the departmental proceeding and/or criminal proceeding against the employee.

4. As there were conflicting decisions on this issue, the matter was taken to the Full Bench in C.W.J.C. No. 15328 of 2016, in the case of **Arvind Kumar Singh vs. The State of Bihar & Ors.** and analogous cases, in which by judgment dated 02.05.2018, *inter alia*, it has been held that after coming into force of the amendment to the Pension Rules by incorporating Rule 43(c) on 19th of July, 2012, an employee who is facing departmental inquiry or judicial proceeding on the date of his superannuation would be entitled to provisional pension which would include gratuity to the tune of an amount not less than 90 per cent. Thus, the law having been settled by the Full Bench, the writ petition is required to be disposed off in such terms.

5. Accordingly, the payment of withheld gratuity of the



petitioner be made in terms of Rule 43(c) of the Bihar Pension Rules. The same be done within three weeks from the date of production of a copy of this order before the respondent no. 6.

(Ahsanuddin Amanullah, J.)

P. Kumar

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