

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1645 of 2014

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Ramesh Chandra Jaiswal Son Of Late Ram Chandra Prasad Resident Of Village
Ghorasahan, P.S. Ghorasahan In The District Of East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Home (Jail) Department,
Government Of Bihar, Patna
2. The Inspector General Of Prisons, Bihar, Patna 15
3. The Superintendent, District Jail, Bettiah
4. The Accountant General, Bihar, Birchand Patel, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Braj Nandan Kumar Tiwary, Advocate
For the State : Mr. A.K. Sinha, GA 1

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-03-2018

Heard learned counsel for the petitioner and the State.

2. The writ petition had been filed for the following
reliefs:

*“I) For that under Rule 43 (b) of Bihar Pension
Rules (in Short “the Rules”) State Government has
right to withhold pension or a part thereof, if the
petitioner is found in departmental or judicial
proceeding to have been guilty of grave
misconduct during his service.*

*II) For that the petitioner has not been declared
guilty either in departmental or judicial
proceeding.*

*III) For that a Spl. Case No. 35/2011 against the
petitioner arising out of Town (Bettiah) P.S. Case*



No. 444/11 is pending in the court of Spl. Judge, Vigilance, Muzaffarpur for want of sanction of State Government under Cr.P.C. Rules.

IV) For that the petitioner is entitled to get full pension as he has not been declared guilty in any proceeding.”

3. The stand taken in the counter affidavit filed on behalf of respondents no. 1 to 3 is that provisional pension has been started to the petitioner despite other retiral dues and as per the rejoinder filed, the only dispute which now remains to be considered is with regard to full salary for the period of suspension after adjusting the amount of subsistence allowance.

4. In view of the fact that the petitioner was facing criminal trial, the authorities, at the relevant point of time, were justified in withholding part of his pensionary benefits moreso, in view of the law laid by a Division Bench of this Court in the case of **Vijay Kumar Mishra v. State of Bihar** reported as **2017(1) PLJR 575**. However, the Court has been informed that the original writ petitioner, who was the employee, has died.

5. In the background of such fact, the Court can only observe that now the criminal proceeding has come to an end having abated against the writ petitioner. Thus, the authorities are required to take a final decision in the matter and grant whatever is legally



admissible, to his heirs.

6. Accordingly, the writ petition stands disposed off with liberty to the heirs of the writ petitioner to file a representation before the sanctioning authority/competent authority with regard to full payment of the retiral dues of the petitioner. If such representation is filed within four weeks from today, the authorities concerned shall look into the matter and pass a reasoned order within two months from the date of such filing. If it transpires that any further amount is required to be paid, the same shall also be paid to the heirs of the writ petitioner within six weeks thereafter.

(Ahsanuddin Amanullah, J)

Anjani/-

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