

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17647 of 2016

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Jai Kishore Prasad Sharma, Son of Late Chhedi Prasad Sharma, Resident of
Village- Khaira, P.S. Haweli Kharagpur, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Education Department, Bihar, Patna.
2. The Director, Secondary Education, Bihar, Patna.
3. The District Magistrate, Munger.
4. The District Education Officer, Munger.
5. The District Programme Officer, Establishment Munger.
6. The District Welfare Officer, Munger.
7. The Treasury Officer, Munger.
8. The Head Master, Panch Kumari Kanya High School, Haweli Kharagpur, Munger.
9. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the State	:	Mr. J.K. Roy-1, SC-13
For the A.G.	:	Mr. Kumar Priya Ranjan, SC with Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 21-08-2018

Heard learned counsel for the petitioner; State and
Accountant General.

2. In terms of the order dated 09.08.2018, the
respondents no. 5 and 8 are also present in Court. Counter affidavit
has been filed on behalf of respondent no. 8 and the petitioner has also
filed his reply to the counter affidavit on behalf of respondent no. 5.

3. The matter is now stuck on the question of fixing the
retiral dues of the petitioner on the basis of entries in his service book



which, even after being re-constructed, is not available with the authorities who have taken the stand that the same was taken by the petitioner for being verified and then returned but he has not done the same, whereas the petitioner has taken the stand that it was never handed over to him. In the counter affidavit filed today, the stand is that letters which disclose that the petitioner had taken the re-constructed service book for verification is in his own hand. Further, documents have been brought on record to indicate that the petitioner himself had agreed for adjustment of the excess amount paid to him due to wrong fixation of pay etc. It is further the stand of the authorities that various documents, which the petitioner was required to hand over to his successor, have not been so done by the petitioner for which there is a direction even to lodge an F.I.R. It appears that the only dues which are yet to be paid to the petitioner are of pension, gratuity and leave encashment.

4. Be that as it may, in view of the overwhelming nature of materials on record produced by the authorities to indicate that the petitioner has not discharged his liability at the time of his superannuation and also the categorical stand taken on oath that the service book was taken by him and the letters written by him in his own handwriting, even though denied on oath by the petitioner, the facts being highly disputed, the Court cannot issue any positive



direction. As far as law is concerned, it is incumbent upon a person superannuating to hand over the complete charge of his office. Moreover, in the present case, the Court does not find that the authorities are in any way targeting or harassing the petitioner and there is enough to indicate that the petitioner in fact is, for reasons best known to him, not co-operating with the authorities. In view thereof, the writ petition is not required to be kept pending and accordingly disposed off. As and when the petitioner completes the formalities, as required under law, his remaining dues shall be paid.

5. Personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J)

Anjani/-

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