

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14120 of 2013

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Md. Kamrul Hoda, Son of Hazi Abdul Majid, Resident of Village - Kathan @ Chapra Hussain, P.O. Barkagaon, P.S. Karja District – Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director Consolidation, Bihar, Patna.
3. The Joint Director, Consolidation, Tirhut Division, Muzaffarpur.
4. The Deputy Director, Consolidation, Muzaffarpur.
5. The Consolidation Officer, Sahebganj, District – Muzaffarpur.
..... Respondent 1st Set
6. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
7. The District Magistrate, Muzaffarpur, District – Muzaffarpur.
8. The Deputy Collector, Muzaffarpur, District – Muzaffarpur.
9. The Circle Officer, Minapur, District – Muzaffarpur.

.... Respondent 2nd Set

..... 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: 15-03-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for the following

reliefs:

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 18.12.2012 passed by the Respondent no. 7 and contained in his memo no. 266 (H.Q.) dated 18.12.2012, whereby and where under the Respondent no. 7 has been pleased to order for reduction of cent percent pension of the petitioner under Section 43 (b) and 139 of the Bihar Pension Rules, 1950 as also ordered that the petitioner is not entitled for any salary except subsistence allowance.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and



directing the Respondent Authorities to pay all full back wages after deduction of subsistence allowance, which had already paid to the petitioner and also to pay all kinds of retirement benefit to the petitioner.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. The basic grievance is against the order dated 18.12.2012, which has been passed by the respondent no. 7 in the departmental proceeding against him which though initiated prior to his superannuation on 30.06.2009, final order has been passed on 18.12.2012 and the petitioner has moved the Court straightway under Article 226 of the Constitution of India.

4. Learned counsel for the State took a preliminary objection in the counter affidavit. Learned counsel submitted that there is an alternative statutory remedy available to him by moving in appeal before the Divisional Commissioner, Muzaffarpur against such order.

5. Faced with the situation, learned counsel for the petitioner submitted that the writ petition be disposed off giving liberty to the petitioner to avail the remedy before the appellate forum with a prayer that any limitation for filing such appeal be condoned.

6. Learned counsel for the State does not oppose.

7. In view thereof, the writ petition stands disposed off



giving liberty to the petitioner to file appeal before the Divisional Commissioner, Tirhut Division, Muzaffarpur, against the order dated 18.12.2012, which is impugned in the present writ application. If an appeal is filed within one month from today before the respondent no. 6, the same shall be considered and disposed off on merits, after due opportunity of hearing being given to the petitioner, in accordance with law, expeditiously and in any case within three months from the date of filing of such representation.

(Ahsanuddin Amanullah, J.)

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