

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.13843 of 2009**

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Kedar Paswan, Son of late Raman Paswan, resident of A.G. Colony, Main Road (Near S.S. Complex) P.O.- Ashiana Nagar, P.S.- Shastri Nagar, District-Patna 800025.

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. Road Construction Department, through the Principal Secretary, Govt. of Bihar, Bishweshwariya Bhawan, Baily Road, Patna
3. Secretary, Road Construction Department, Govt. of Bihar, Bishweshwariya Bhawan, Bailey Road, Patna.
4. The Additional Secretary, Incharge, Establishment, Road Construction Department, Govt. of Bihar, Bishweshwariya Bhawan, Baily Road, Patna.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr. P. N. Pathak, Advocate  
For the Respondent/s : A.A.G.-11

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date : 26-03-2018**

Heard learned counsel for the petitioner.

2. In the present case, the petitioner is challenging the order containing memo no.5840 (S) dated 04.06.2009, whereby and where-under the period of suspension from service from 20.11.2000 to 08.02.2005 has been treated that he will be entitled to only subsistence allowance, except that he would not be entitled for any further amount of payment.



3. The petitioner was Superintending Engineer, was given additional charge of Director, Purchase and Transport from 27.01.1994 to 17.08.1994. As the Government found, huge financial irregularity in Bitumen, was called as 'Bitumen Scam' that led to lodging of criminal case Vide R.C. No.42(A) of 1997, the petitioner remained in jail from 11.01.2000 to 12.04.2000. When he came out from the jail custody, he gave his joining but the Government after a while, in exercise of power under Rule 100 of the Bihar Service Code, put the petitioner under suspension vide order dated 20.11.2000. The petitioner faced the criminal trial and ultimately, the Court has acquitted him in R.C. No.42(A) of 1997 on 23.06.2007. The petitioner superannuated from the service on 29.02.2008, after his retirement a departmental proceeding was initiated on 30.09.2008, which was challenged by the petitioner in C.W.J.C. No.17299 of 2008 on the ground that the proceeding has been initiated for a misconduct after expiry of four years of alleged incident. This Court has accepted the submission of the petitioner and set aside the proceeding and directed that the petitioner would be entitled to all consequential benefits and should be paid his retiral dues in view of the law laid down in the case of *State of Bihar and Ors. vs. Md. Idris Ansari* reported in *A.I.R. 1995 (S.C.) 1853* and in



the case of *Ram Naresh Singh vs. State of Bihar* reported in 2008 (4) PLJR, page 166.

4. Against the aforesaid order, the State preferred L.P.A. No.314 of 2011, in which I myself was a party of the Division Bench. The Division Bench, vide order dated 08.07.2011, dismissed the appeal of the State and that order was tested before the Hon'ble Supreme Court in S.L.P. (C) No.21678 of 2011 unsuccessfully.

5. In view of the order passed by the Writ Court, wherein it has been held that the petitioner will be entitled to all consequential benefits including the retiral dues. In such view of the matter, depriving the petitioner from the said benefit will run contrary to the order passed by this Court in the writ petition and as such, it is nothing but travesty of justice.

6. In such view of the matter, this Court directs the respondents to make payment of difference of salary to the petitioner for the period the petitioner remained under suspension as early as possible.

7. Accordingly, the impugned order containing memo no.5840 (S) dated 04.06.2009 is modified to the aforesaid extent.



8. This writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

pawan/-

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