

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1542 of 2014

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Dr. Gauri Shankar Prasad, Son of Late Sukhdeo Narayan, resident of Village-Deogan, P.O. & P.S.- Kurhani, District- Muzaffarpur (Bihar) at present residing at Mohalla- Chesire Home Road, Bariatu, Ranchi, P.O. & P.S.- Bariatu, District-Ranchi, Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Animal Husbandry & Fisheries Resources, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
2. The Secretary, Department of Animal Husbandry & Fisheries Resources, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
3. The Joint Secretary, Department of Animal Husbandry & Fisheries Resources, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harsh Singh, Advocate
For the State	:	Mr. Birju Prasad, G.P. 13
		Mr. Ravi Kumar, A.C. to G.P. 13
		Mr. Amresh, A.C. to G.P. 13

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 28-06-2018

Heard learned counsel for the petitioner and State.

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

“(a) For issuance of an appropriate writ(s)/order(s)/direction(s) particularly a writ in the nature of certiorari for quashing of order dated 17.02.2009 issued vide memo no. 20 Ni.Go. dated 17.02.2009 (Annexure-3), passed by the respondent no. 3, whereby and whereunder it has been decided to withhold the pension and Gratuity of the petitioner permanently in view of the fact that the petitioner has been convicted in R.C. 19(A)/96 by the learned Special Judge-IV, C.B.I. (A.H.D. Scam Cases), Ranchi on 12.04.2006.



(b) *For issuance of an appropriate writ(s)/order(s)/direction(s) particularly a writ in the nature of mandamus commanding upon the respondents to release rest 10% of the pension amount for the period 01.01.1997 till 12.04.2006 with statutory interest as the petitioner has only received 90% of provisional pension, which has been granted in terms of the order passed by this Hon'ble Court vide order dated 17.09.2010 passed in L.P.A. No. 1393/2010.*

(c) *For issuance of an appropriate writ(s)/Order(s)/direction(s), particularly a writ in the nature of mandamus commanding upon the respondents to grant full pension and gratuity to the petitioner with statutory interest including for the period post 12.04.2006 being the date of conviction of the petitioner in connection with R.C. Case No. 19(A)/96.*

(d) *For issuance of an appropriate writ(s)/order(s)/direction(s) particularly a writ in the nature of mandamus commanding upon the respondents to release the amount of Earned Leave Encashment of the petitioner with statutory interest forthwith.*

AND/OR

(e) *For issuance of any other appropriate writ(s) order(s)/direction(s) upon the authority concerned in the facts and circumstances of the case for doing conscionable justice to the petitioner."*

3. At the very outset, learned counsel for the State raised a preliminary objection and submitted that the petitioner is precluded from raising such grievance which is hit by the principle



of *res judicata*, inasmuch as, both in C.W.J.C. No. 13054 of 2005 and later in L.P.A. No. 1393 of 2010, the Court had not interfered with the impugned order of dismissal dated 17.02.2009, while specifically recording the challenge made to the same on behalf of the petitioner.

4. Learned counsel for the petitioner initially tried to make some distinction, but in view of the categorical reference in the order dated 17.09.2010 in L.P.A. No. 1393 of 2010, where the Court did not interfere with the State Government order dated 17.02.2009, he was not in a position to demonstrate before the Court that such order was never considered by the Court, either by the learned Single Bench or the learned Division Bench.

5. Having considered the matter, the Court finds the objection of learned counsel for the State to be valid. The matter was directly agitated in C.W.J.C. No. 13054 of 2005, may be by way of Interlocutory Application, which has been taken note of by considering and passing of the final order dated 11.05.2010 and further in the order dated 17.09.2010 in L.P.A. No. 1393 of 2010, where the Division Bench has specifically not interfered with the order dated 17.02.2009.

6. In view of the aforesaid, the writ petition is not maintainable as it is hit by the principle of *res-judicata*, as the issue



has already been agitated by the petitioner earlier without success.

7. Accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

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