

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1578 of 2018

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Jare Alam, S/o Late Majid1 Alam, Resident of Village-Bagahi, P.S.-Lauriya,
District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Department of Water Resources, Govt. of Bihar, Patna.
2. The Principal Secretary, Water resources Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief-North, Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Department of Water Resources at Motihari, District-East Champaran.
5. The Deputy Secretary (Management), Department of Water Resources, Bihar at Patna.
6. The Executive Engineer, Triveni Nahar Nirman Prabandhan Division, Narkatiyaganj, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Onkar Nath
For the Respondent/s : Mr. Vinay Kriti Singh -Ga2

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 27-11-2018 Heard the learned counsel for the petitioner and

learned counsel appearing on behalf of the State.

By the present writ application petitioner seeks payment of 10% gratuity, which has been withheld by the respondent no. 5 vide Memo No. 831 dated 08.07.2015, stating therein that the petitioner has been exonerated by the Special Work Officer of the Water Resources Department vide Letter dated 06.08.2015, hence, there is no justification for withholding of 10% of gratuity.

A counter affidavit has been filed by the respondents



wherein it has been submitted that a criminal case bearing Ram Nagar P.S. Case No. 20 of 1995 had been lodged against the contractor and other employees. The complicity of the petitioner, who was a Junior Engineer in the Water Resources Department, was also found and after investigation, chargesheet has been submitted against the petitioner and even cognizance has been taken against him by the Court of the learned A.C.J.M., Bagha West Champaran. The State Government has also sanctioned prosecution of six Junior Engineers including the petitioner vide order no. 215 dated 28.06.2016, and in view of Rule 43 of the Pension Rules where a departmental proceeding or judicial proceeding in which prosecution has been sanctioned against a Government Servant and is not concluded till his retirement, the maximum admissible amount of pension would not be more than 90% of the pension. Rule 27 of the Pension Rules includes gratuity as part of the pension.

Considering the fact that the criminal proceeding has not yet concluded and in view of Rule 43 (c) of Bihar Pension Rules since the petitioner has already been granted 90% of the pension and gratuity in view of Rule 43(c) of Bihar Pension Rules, he is not entitled for full pension and gratuity unless exonerated by the criminal court.



This writ application has no merit and is dismissed
accordingly.

(Nilu Agrawal, J)

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