

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4566 of 2018

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Nand Kishor Malviya, Son of Tripurari Tiwary, resident of Village-
Gosaidaspur, P.O.- Champanagar, P.S.- Nathnagar, District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Bhagalpur.
2. The Senior Deputy Collector, Zila Nazarat Sakha, Bhagalpur.
3. The Senior Deputy Collector, (Establishment), Bhagalpur.
4. The Sub Divisional Officer, Sadar, Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Advocate Mr. Sushant Praveer, Advocate
For the State	:	Mr. Dhurendra Kumar, A.C. to G.P.-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 28-08-2018

Heard learned counsel for the petitioner and
learned counsel for the State.

2. In this case, limited grievance has been raised in view of new development that the petitioner has already superannuated from the service in February, 2018, hence, the order of suspension containing memo no.1692 dated 18.10.2017 technically comes to an end and the proceeding will be treated to have been converted under Section 43 (b) of the Bihar Pension Rules.



3. The grievance has been raised by the petitioner that he has not been paid any farthing under the heading of subsistence allowance nor the Inquiry Officer has concluded the inquiry till date and he is suffering a lot.

4. When an employee is put under suspension, it is supposed that he will be paid the subsistence allowance as per Rule-10 of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005.

5. In such view of the matter, this Court directs the respondent authorities to pay the subsistence allowance to the petitioner as per law and release the amount of subsistence allowance in his favour without any delay preferably within a period of four weeks from the date of receipt/production of a copy of this order. Furthermore, as per the amendment in the Bihar Pension Rules by way of addition of sub-Rule (c), the petitioner is entitled to pensionary benefit upto 90%. Hence, the respondent authorities are directed to pay the payment of provisional pension without unnecessary delay and if the petitioner has filled up the form for the pension and gratuity, the same should be paid to him as per Rule-43(c) of the Bihar Pension Rules.



6. The Disciplinary Authority is directed to conclude the departmental proceeding within a period of six months from the date of receipt/production of a copy of this order subject to condition that the petitioner would cooperate in the early disposal of the departmental proceeding. If the petitioner fails to cooperate in the departmental proceeding, the Inquiry Officer will be at liberty to proceed *ex parte* and take decision in accordance with law.

7. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	30.08.2018
Transmission Date	N/A.

