

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16529 of 2017

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Sudhanshu Shekhar Tripathi S/o- Late Raj Bali Tripathi, resident of Flat No. - 304, Shyama Palace Apartment Vednagar, P.S.- Rukanpura, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Labour, Government of Bihar.
3. The Director, Directorate of Employment Bihar, Patna.
4. The Deputy Director, Directorate of Employment Bihar, Patna.
5. The Accountant General, Bihar, Patna.
6. Director, General Provident Fund, Bihar, Patna.
7. District Provident Fund, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar, Advocate
		Mr. Nikunj Kumar, Advocate
For the Respondent/s	:	Mr. Ajit Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 29-04-2019

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the Accountant General, Bihar, Patna. No one appears on behalf of the State.

2. Petitioner retired from the post of Deputy Director, Directorate of Employment, Magadh Division, Gaya with effect from 31.10.2017. He prays for payment of his retiral benefits including pension, gratuity, GPF, commuted pension, leave encashment, group insurance, travelling allowance and deputation allowance.



3. A counter affidavit has been filed on behalf of Respondent Nos. 2, 3 and 4 stating therein that group insurance of Rs. 1,89,055/- has been paid to the petitioner on 14.12.2017, GPF of Rs. 17,77,594/- on 02.01.2018 and Rs. 6,73,911/- has been paid on 15.01.2018. An authority letter for earned leave of 300 days has been issued for an amount of Rs. 10,79,400/- on 28.12.2017 by the Accountant General, Bihar, Patna and 90% of provisional pension has already been sanctioned vide Memo No. 3468 dated 04.12.2017 but since final pension has not been sanctioned benefit of commutation of pension could not be granted to the petitioner. It is further stated in the counter affidavit that gratuity has not been paid as departmental proceeding is pending against the petitioner on the date of his superannuation and travelling allowance and deputation allowance is not admissible to the petitioner.

4. Considering the nature of claim and the payment so made as well as the authority letter of leave encashment and 90% of provisional pension has already been sanctioned, the respondent No. 3, the Director, Directorate of Employment, Bihar, Patna is directed to make payment of sanctioned amount with regard to leave encashment and 90% of the provisional pension to the petitioner within a period of three months from the date of receipt/ production of a copy of this order.



5. So far gratuity is concerned, the authorities are directed to pay the gratuity in the light of the Full Bench judgment of this Court in the case of *Arvind Kumar Singh Vs. The State of Bihar & Ors.* since reported in *2018(2) PLJR 933* wherein it has been held that pension includes gratuity and provisional pension includes gratuity of an amount not less than 90%. The rest of the payment of retiral benefits would abide by the decision of the departmental proceeding.

6. Writ application is, accordingly, disposed of.

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NA
CAV DATE	NAFR
Uploading Date	01.05.2019
Transmission Date	NA

