

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14914 of 2018

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Awdhesh Kumar Tewari, S/o Late Guari Shankar Tiwary, resident of village Allapur, P.S. Manjhagarh, District – Gopalganj, retired Executive Engineer, Building Department, Govt. of Bihar, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Secretary, Road Construction Department, Bihar, Patna.
4. The Joint Secretary, Building Construction Department, Bihar, Patna.
5. Director, Provident Fund, Directorate of P.F. Pant Bhawan, Patna.
6. The S.E. Advance Planning Circle, Building Construction Department, Govt. of Bihar, Patna.
7. The Treasury Officer, Nirman Bhawan, Treasury, Vishweshwaraiya Bhawan, Bailey Road, Patna.
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Santosh Kumar
For the Respondent/s : Mr.Chittranjan Sinha -Paag2

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 29-03-2019 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel appearing on behalf of the Accountant General, Bihar, Patna.

Petitioner in the present writ application prays for full pension as 90% of the pension is being paid to him, proper calculation of GPF as on account of mistake in calculation he has not received the entire amount of GPF and no gratuity has been paid to him.

Learned counsel for the petitioner submits that he



retired from the post of Executive Engineer on 31.03.2018 and a major penalty proceeding was initiated and Prapatra 'Ka' was communicated to the petitioner which on conclusion resulted in a minor penalty order dated 08.01.2018 which was a punishment of censure and reduction of pay scale of one year without cumulative effect. The said punishment order was modified by Memo No. 9515 dated 02.09.2018 wherein major punishment as non-cumulative effect has been changed to cumulative effect which became a major penalty. The petitioner preferred a writ application for quashing of the said major penalty order dated 07.09.2018 in CWJC No. 8015 of 2018 which was quashed by single Bench of this Court on 05.12.2018. He submits that the petitioner is entitled to all the benefits as stated hereinabove. Learned counsel for the petitioner further submits that gratuity of a retired employee under 43(b) of the Bihar Pension Rules cannot be withheld as held by the Full Bench in the case of **Arvind Kumar Singh vs. State of Bihar &Ors. since reported in 2018 (2) PLJR 933.**

Learned counsel for the State submits that a counter affidavit had been filed in the present writ application before the order in CWJC No. 8015 of 2018 could be passed as counter affidavit was filed on 05.11.2018 and order passed in CWJC No.



8015 of 2018 is dated 05.12.2018.

Since the major punishment order dated 07.09.2018 does not survive, the respondents are directed to pay the pensionary benefits keeping the aforesaid two orders in mind.

Learned counsel for the petitioner is directed to file a detailed representation of the remaining dues before the respondent no. 4, the Joint Secretary, Building Construction Department, Bihar, Patna which will be disposed of within a period of three months from the date of filing of such representation. Any amount due to the petitioner would be paid with statutory interest within a period of one month thereafter. If certain amounts are inadmissible, the same shall be communicated to the petitioner by a speaking order sent through registered post.

In view of the Full Bench Judgment in the case of **Arvind Kumar Singh** (supra), the payment of gratuity would be released within a period of six weeks.

Writ application is, accordingly, disposed of.

(Nilu Agrawal, J)

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