IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4072 of 2017

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Uma Shankar Ray Son of Late Mohan Roy, resident of Village- Chunni, P.S.- Buxar Sadar Town, Distt.- Buxar.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Joint Secretary, Minor Water Resources Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Minor Water Resources Department, Government of Bihar, Patna.
4. The Chief Engineer, Patna Region, Minor Water Resources Department, Government of Bihar, Patna.
5. The Superintending Engineer, Patna Irrigation Circle, Minor Water Resources Department, Government
6. The Executive Engineer, Minor Irrigation Division, Buxar.
7. The Executive Engineer, Tubewell Division, Buxar.
8. The District Magistrate, Buxar.
9. The District Accounts Officer, Buxar.
10. The Treasury Officer, Buxar Division Treasury, Buxar.
11. The Accountant General A and E, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Choudhary, Advocate
For the Respondent/s	:	Mr.Ajit Kumar-Ga9

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT
Date : 03-05-2019

Heard Mr. Ashok Kumar Choudhary, learned counsel for the petitioner, learned AC to GA 9 for the respondent State of Bihar and learned counsel for the Accountant General.

2. The petitioner has filed the instant writ petition for a direction upon the respondents to compute pension, gratuity,

earned leave and other post retiral dues after granting benefits of time bound promotion as well as in terms of other benefits provided by the State Government and thereafter, to regularly pay the pension, for a direction to the respondent authorities to revise the pension and other post retiral dues of the petitioner in terms of recommendation of the 6th Pay Revision Commission as extended to employees of the State of Bihar vide letter no. 820 dated 23.09.2009 issued by the Finance Department, Bihar, to revise the pension and other post retiral dues of the petitioner after taking into account grant of ACP with effect from 09.08.1999, to pay arrears of pension, gratuity, earned leave and other post retiral dues with interest from the date of entitlement and for other reliefs to which the petitioner may be found entitled.

3. The case of the petitioner is that he retired on 28.02.2005 as Revenue Clerk from the District Buxar. After retirement the pension of the petitioner was revised with effect from 01.03.2005 vide pension payment order issued by the office of the Accountant General (A& E) Bihar, Patna dated 23.03.2009. It is further submitted that the petitioner was accorded the benefit of ACP and was given the pay scale of 5000-150-8000/- with effect from 09.08.1999. Although the

consequent pay of the petitioner was fixed with effect from 09.08.1999 vide letter issued by the Executive Engineer, Tubewell Division, Buxar however, the pension of the petitioner was not revised in terms of the newly fixed salary. It was further submitted that pension of the petitioner was also not revised in terms of letter no. 820 dated 23.09.2009 issued by the Finance Department, Bihar and as such benefits of the recommendation of the 6th Pay Revision Commission was not extended to the petitioner although the same was given to other employees. Further 132 % Dearness Allowance on the pension was also not being paid to the petitioner with effect from 01.07.2016 in terms of memo no. 9386 dated 09.12.2016 issued by the Finance Department.

4. A counter affidavit was filed in the case on behalf of the respondent nos. 1-6 i.e., the authorities of the Minor Water Resources Department, Government of Bihar. Further a counter affidavit and supplementary counter affidavit have also been filed on behalf of the Accountant General (A & E), Government of Bihar, Patna (respondent no. 11). It has been submitted on behalf of the respondent State that the difference of amount in lieu of the unutilized earned leave of the petitioner was sanctioned by the Executive Engineer in the year 2009 and the

said amount has been paid to the petitioner vide bill no. 90/09-10. With respect to the pension and gratuity of the petitioner, it was submitted that on request of the Executive Engineer, Minor Irrigation Division, Buxar, the Accountant General, Bihar has issued revised pension and gratuity payment order in favour of the petitioner on 22.03.2009 and a copy of the said order has been brought on record as Annexure C to the counter affidavit filed on behalf of respondent nos. 1 to 6. On the claim of the petitioner for grant of benefit of 6th Pay Revision it has been submitted that the benefit of 6th Pay Revision was allowed by the State Government with effect from 01.01.2006 whereas the petitioner already superannuated on 28.02.2005 and as such he is not entitled to get the said benefit.

5. In the counter affidavit filed on behalf of the Accountant General, Bihar (respondent no. 11) it has been stated that a letter dated 15.06.2017 to the Executive Engineer and another letter dated 15.06.2017 to the Treasury Officer, Buxar has been written asking them to make payment to the petitioner in terms of the 6th Pay Revision along with 132 % Dearness Allowance on the pension with effect from 01.07.2016.

6. It has been submitted by Mr. Ashok Kumar Choudhary, learned counsel appearing on behalf of the petitioner that neither

pension of the petitioner has been revised in terms of the recommendation of the 6th Pay Revision, in terms of letter no. 820, dated 23.09.2009 of the Finance Department, Bihar nor is the petitioner being paid 132 % Dearness Allowance on the pension with effect from 01.07.1916 in terms of memo no. 9386 dated 09.12.2016 issued by the Finance Department, Bihar.

7. With respect to revision of the pension of the petitioner in terms of letter no. 820 dated 23.09.2009 issued by the Finance Department, Bihar and as such the benefits of the recommendations of the 6th Pay Revision Commission, it is the contention of the respondent State that the benefit of revision was allowed by the State Government with effect from 01.01.2006 and as such the petitioner had superannuated on 28.02.2005, he would not be entitled to get the said benefit. A perusal of the said circular shows that with respect to those persons who retired before 01.01.2006, although their pension would be considered to have been revised with effect from 01.01.2006, however, the financial benefits thereof would accrue from 01.04.2007. So far as the petitioner of this case is concerned, having retired on 28.02.2005, he would also be entitled to the benefits of the provisions/revision of pension pursuant to the said circular. There being no merit in the

contention of the respondent State, the same is rejected.

8. So far as the prayer of the petitioner with respect to payment of 132 % Dearness Allowance on pension with effect from 01.07.2016 is concerned, it has been stated in the counter affidavit filed on behalf of the respondent no. 11 that the said claim relates to the Treasury Officer, Buxar and a letter also has been written to the Treasury Officer, Buxar vide letter no. Pen-08-251-52 dated 15.06.2017 requesting him to make payment to the petitioner in terms of recommendation of the 6th Pay Revision along with 132 % Dearness Allowance on the pension with effect from 01.07.2016.

9. In view of the facts and circumstances stated herein above, this application is allowed with a direction to the respondent authorities to revise the pension of the petitioner in terms of recommendation of 6th Pay Revision as extended to the employees of the State of Bihar vide letter no. 820 on 23.09.2009 issued by the Finance Department, Bihar and also to pay 132 % Dearness Allowance on the pension with effect from 01.07.2016. The above amounts should be paid to the petitioner within a period of four months from the date of receipt/production of a copy of this order.

10. This writ application stands disposed off with the

above observation and directions.

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	24.04.2019
Uploading Date	
Transmission Date	