

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1088 of 2017

In
Civil Writ Jurisdiction Case No.10508 of 2015

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Tribhuwan Ray Son of Sri Ram Din Ray Resident of Mohalla-Ashokpuri
Colony, Khajpura, Police Station-Sahstri Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Mrs. Sujata Chaturvedi At Present Principal Secretary, Department Of Transport, Government of Bihar, Patna.
2. Mrs. Sujata Chaturvedi at Present Principal Secretary, Transport Department Govt. of Bihar, Bailey Road, Patna
3. Sri Ram Kishore Mishra at Present the State Transport Commissioner, Government of Bihar, Patna.
4. Sri Ajiv Vaatsa Raj at Present OSD cum in Charge Establishment, Transport department, Government of Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anand Kumar Ojha
For the Opposite Party/s : Mr.Ajay Kumar Rastogi - Aag10

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

- 3 20-02-2019 1. Heard learned counsel appearing on behalf of the petitioner and counsel appearing on behalf of the opposite party.
2. Learned counsel appearing on behalf of the petitioner submits that even after the order of the Writ Court, the opposite parties have adopted recalcitrant attitude towards legitimate post retiral claim of the petitioner. He referred to the discussion of the Writ Court dated 20.8.2016 and submits that the Court has found substance in the claim of the petitioner as to allowing 90% of provisional pension but unfortunately the opposite parties have not honoured that discussion and provisional pension which was earlier paid to the petitioner has



been stopped. He submits that because of their attitude the petitioner has been denied his post retiral dues which is not a bounty but his right. It is the consistent decision of the Apex Court including the case of D.S. Nakara (1983) 1 SCC 305 Supreme Court.

3. Learned counsel appearing on behalf of the opposite parties would submit that having regard to the limited direction issued by the Writ Court and its full compliance no further indulgence is required.

4. In the contempt jurisdiction, it is true that the Court exercising contempt jurisdiction has to decide the proceedings the at the touchstone of the direction issued by the Writ Court and not go beyond what has been decided by the Writ Court, the Court is restrained from passing any fresh order as held out by the Apex Court (2006) 1 SCC 613. But it is sound principles of law that litigation must be given finality. Taking the order of the Writ Court in its entirety it follows that the Court expected the opposite parties to pay provisional pension and not to deny provisional pension. While disposing of the present proceeding the Court is constrained to direct the opposite party to restore the provisional pension which was paid to the petitioner to avoid future litigation.



5. With the aforesaid the present proceeding stands disposed of.

6. The opposite parties are under obligation to restore the provisional pension within a period of one month from today, failing which petitioner shall be at liberty to file affidavit for revival of present proceeding.

(Anil Kumar Upadhyay, J)

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