

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15829 of 2018

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Shankar Rai son of Late Ramdeo Rai, resident of Village- Lodipur, Post Office Police Station- Goraul, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Education, Bihar, Patna
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Education Officer, Vaishali.
6. The District Programme Officer (Establishment), Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar, Advocate
For the Respondent/s : Mr.Jitendra Kr. Roy-1, SC-13

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 17-06-2019

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

2. Petitioner superannuated from service on 31.01.2013 as Incharge Headmaster of Kasturba Gandhi Balika Residential School, Block Goraul, District Vaishali. He seeks release of his gratuity which has been withheld by the District Programme Officer (Establishment), Vaishali by letter dated 10.10.2014, as contained in Annexure-5 series.

3. Petitioner had earlier moved this Court in CWJC No. 13635 of 2013, which was with regard to funds received for certain works and the petitioner was asked to refund the said



amount. The said writ application was disposed of vide order dated 19.07.2013 with other analogous cases with direction to the Director, Primary Education, Bihar, Patna to take a final decision on or before 31.12.2013 and departmental proceeding would remain in abeyance till then.

4. It has been submitted by the learned counsel for the petitioner that the entire retiral benefits have been sanctioned and paid and now recovery from the gratuity is purported.

5. The matter is no longer *res integra* as held in CWJC No. 499 of 2017 in the case of Rajeshwar Prasad Singh vs. The State of Bihar & Ors. dated 16.10.2017 by a coordinate Bench of this Court that withholding of gratuity in absence of any order passed in any proceeding under Bihar Service Rules or Bihar Pension Rules is wholly arbitrary, illegal and unjustified.

6. Accordingly, the District Programme Officer (Establishment), Vaishali, Respondent No. 6 is directed to make payment of duly sanctioned and authorised gratuity to the petitioner within a period of three months from the date of receipt/production of a copy of this order. In case, the Respondent No. 6 fails to make payment of gratuity to the petitioner within the aforesaid period of three months, the admissible amount of gratuity would earn interest @ 7 per cent per annum from the date



it became due till the date of actual payment. In such case of payment of interest, the State Government shall be at liberty to recover the amount of interest from the officer/ officers responsible for the delay caused in payment of amount of gratuity in accordance with law.

7. Writ application is accordingly disposed of with the aforesaid terms.

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.06.2019
Transmission Date	NA

