

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25368 of 2019

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Md. Fasiullah Ansari, aged about 61 years (Male), Son of Md. Ishaque Ansari,
Resident of Ward No.23, P.O. + P.S- Gopalganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Patna.
2. The Director, Secondary Education, Patna.
3. The District Education Officer, Gopalganj
4. The District Programme Officer (Establishment), Gopalganj.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh, Advocate
For the State	:	AC to SC 28
For the Accountant General	:	Mr. Purushottam Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 19-12-2019

Heard learned counsel for the petitioner; learned AC to SC 28 for the State and learned counsel for the Accountant General.

2. The petitioner has moved the Court for the following relief:

“That this is an application for issuance of an appropriate writs/directions commanding the respondents to make payment of gratuity, leave encashment, commutation of 40% pension sale and full pension from July, 2018. The petitioner further prays to make payment of 12% interest annum on aforesaid retirement dues and also grant any other



relieves for which petitioner is found entitled in facts and circumstances of the case.”

3. Learned counsel for the petitioner submitted that in terms of Rule 43 (c) of the Bihar Pension Rules, 1950 (hereinafter referred to as the ‘Rules’), the petitioner is entitled to payment of 90% gratuity which has not been paid. It was submitted that upon the petitioner superannuating only 90% pension has been paid and full gratuity has been withheld. It was submitted that the same was due to a departmental proceeding pending against him on the frivolous ground that he has not held the meeting of the Managing Committee. Learned counsel further submitted that the law has also been settled by a Full Bench of this Court in **Arvind Kumar Singh vs. State of Bihar (Full Bench)** reported as **2018 (2) PLJR 933** in which it has been held that against an employee upon retirement, if departmental proceeding is still pending, payment has to be made in terms of Rule 43(c) of the Rules. It was submitted that this was in terms of Rule 43(c) of the Rules, introduced with effect from 19.07.2012, and the petitioner having superannuated in June, 2018, the said Rule is applicable in his case, which has also been reiterated in the judgment of the Full Bench in **Arvind Kumar Singh (supra)**.



4. Learned counsel for the State submitted that in terms of the statutory provision as well as the law settled by the Full Bench, payment shall be made.

5. Having regard to the aforesaid, the writ petition stands disposed off with a direction to the respondent no. 2 to ensure that payment of gratuity to the petitioner is made in terms of Rule 43(c) of the Rules, if already not made, within three weeks from the date of production of a copy of this order before him. With regard to the other claim of the petitioner relating to commutation of pension and also grant of 100% pension, as also 100% gratuity, the same shall abide by the final decision in the departmental proceeding.

(Ahsanuddin Amanullah, J)

Ranjeet/Rahul

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