IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15933 of 2018

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Bishwanath Ram S/o Late Muni Ram, R/o Vill.- Dariyapur, P.O.- Dariyapur, Via- Dhannar, P.S.- Arrah, District- Bhojpur.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The State of Jharkhand through the Chief secretary, Jharkhand, Ranchi.
3. The Principal Secretary, Finance Department , Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Director General of Police, Jharkhand at Ranchi.
6. The Deputy Inspector General of Police, Bhagalpur.
7. The Superintendent of Police, Bhagalpur.
8. The Superintendent of Police, Palamu, Jharkhand.
9. The Senior Superintendent of Police, Ranchi, Jharkhand.
10. The Accountant General , Biahr, Birchand Patel Road, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anil Kumar Maharaj, Advocate
For the State	:	Mr.Sheo Shankar Prasad- SC-8
For Acct. General	:	Mr. Kumar Priyaranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

2 08-06-2020 Heard learned counsel for the petitioner, the State as well as learned counsel for the Accountant General and the State of Jharkhand.

The grievance of the petitioner in this case is with regard to pensionary benefit on the post of Subedar in the Department of Police. The petitioner superannuated on 1.11.1999.

Counsel appearing on behalf of the petitioner would submit that the petitioner was promoted as Jamadar in 1982 and subsequently to the post of Subedar in 1988. He has rendered 28 years of service and retired on 1.11.1999. He submits that the petitioner is entitled to payment of pension on the basis of average salary drawn by the petitioner on the date of retirement.

Learned counsel appearing on behalf of the respondents submits that the petitioner has not passed the departmental examination of Hindi Noting and Drafting and as such he was denied the benefit of promotion while fixing pension. Paragraphs 6 to 8 of the counter affidavit is quoted below for ready reference.

> "6. That in the present context it is relevant to point out that a Government servant shall not get any monetary benefit without passing Hindi nothing and drafting examination in view of the letter of Finance Department State of Bihar as contained in letter no. 4048/Patna dated 3.6.2003. It is from perusal of the said letter dated 3.6.2003 it is apparent that there may be promotion but the said promotion cannot be made giving benefit in the increasement of pay benefit in compliance to the order of Govt. of Bihar contained in letter no. 4048/Patna dated 3.6.2003.
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> 7. That in this regard it is further relevant to point out that it is view of filing the writ petition by the petitioner a report has also been sought from the pension cell of the Senior Superintendent of Police, Bhagalpur whereupon a report has been furnished to the

legal cell of the Senior Superintendent of Police, Bhagalpur vide memo no. 53 dated 2.2.2019. it is from perusal of the said report it transpires that petitioner is a non-matric and he did not pass the examination of Hindi noting and drafting as well as it is therefore his scale/salary has been determined to be Rs. 6500/- as initial scale/salary and sent to the Accountant General, accordingly the Accountant General issued PPO No. 366772 for amount of Rs. 3250/- and it was in terms of the Finance Department resolution bearing letter no. 4048 dated 3.6.2013.

8. That in this regard it is further relevant to point out that office record speaks that petitioner was non matric and he could not pass Hindi Drafting and nothing examination, whereas he was required to pass the said examination in view of letter of Government of Bihar Home (Police) Department as contained in Memo No. 7225 dated 23.07.2005, which also stipulates it as essential to pass Hindi Drafting and noting examination."

There is no dispute that the petitioner superannuated in 1999 and at the time of retirement he was working as Subedar. Now the respondents have decided to fix the pension of the petitioner on the basis of departmental letter no. 7225 dated 23.7.2005, Annexure-C to the counter affidavit. The Court failed to understand how the notification of 2005 is applicable for calculation of pension benefits of the petitioner who retired six years ahead.

Since the petitioner retired as Subedar in 1999, the respondents are hereby directed to calculate the pension of the petitioner on the basis of last salary drawn as Subedar as the notification dated 23.7.2005 shall not be applicable in the case of the petitioner for determination of his pensionary benefits. The entire exercise of revising the pension and payment of pension on the basis of entitlement of the petitioner shall be worked out by the respondents within a maximum period of 60 days from the date of receipt/production of a copy of this order failing which the entire arrears shall carry interest at the rate of 8% which shall be payable to the petitioner from the date of retirement till the date of actual payment.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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