

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3968 of 2020

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Hari Kishore Sinha, Son of Late Ram Prasad Sinha, resident of Village-
Basbitta, P.S.- Majorganj, District- Stiamarhi, at present residing at Mohalla-
Rajivnagar Road No. 5, P.S. Rajivnagar, District- Patna. ... Petitioner/s
Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna.
4. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shahabuddin Azeem @ S. Azeem
For the Respondent/s : Mr.Manoj Kumar Ambastha (Sc26)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 24-06-2020 Heard learned counsel for the petitioner and the respondents.

Earlier, the petitioner has approached this Court challenging the order of charge memo in C.W.J.C. No. 961 of 2015. The writ petition was disposed of by a co-ordinate Bench of this Court vide order dated 16.04.2018 and the order of punishment was quashed. The Court has also categorically held out that as a result of quashing of the order of punishment, the petitioner would be entitled to his consequential benefits. This order, however, will not preclude the respondents from proceeding afresh after observing the procedure prescribed in law.

For non-compliance of order dated 16.04.2018 passed



in C.W.J.C. No.961 of 2015, the petitioner approached this Court by filing M.J.C., bearing M.J.C. No. 2959 of 2018. The Court on appreciation of supplementary show-cause filed by the opposite party stating that the order has been substantially complied with and disposed of contempt petition observing that in view of substantial compliance and without prejudice to the right of petitioner he has given liberty to assail the order in an appropriate proceeding.

Learned counsel for petitioner submits that the respondents have not paid the retiral benefits of the petitioner i.e. pension, gratuity, leave encashment and rest dues over arrears of salary including other consequential benefits in terms of order passed in C.W.J.C. No.961 of 2015. Although this Court has granted liberty to start fresh proceeding after observing the procedure prescribed in law. The Court clarified that the petitioner would be entitled to consequential benefits on quashing of order of punishment.

The petitioner retired on 31.12.2014 after attaining the age of superannuation and, as such, the respondents are under obligation to take recourse of Bihar Pension Rules, as after retirement of an employee, the respondents have no jurisdiction to proceed against the retired employee (petitioner) except by following the procedure i.e. Bihar Pension Rule. The scheme of



Bihar Pension Rules are very clear. Rule 43(a) and 43(b) of Bihar Pension Rules deals with the right of the employer to forfeit the pension.

It is true that pension includes gratuity whereas as the other benefits, like leave encashment, Group Insurance, Provident Fund is not defined as a part of the pension.

Considering the fact that the entire exercise was carried out by the respondents without following the procedure of Bihar Pension Rules, the writ application is disposed of with a direction to the respondents to pay GPF, Group Insurance, Leave Encashment and also ensure payment of the admissible dues in terms of the order dated 16.04.2018 passed in C.W.J.C. No.961 of 2015, if not already paid to the petitioner, within a period of four months from the date of receipt/production of a copy of this order along with calculation chart, failing which the petitioner shall be entitled to 9% interest on all post-retiral dues from the date of filing of the writ application i.e. 19.02.2020 till the date of actual payment.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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