

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19355 of 2017

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Ram Nath Prasad Son of Late Chandra Prasad, Resident of Village- Jamsar,
P.S.- Uchakagaon, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department, Old Secretariat, Patna.
2. The Principal Secretary, Land Reforms Department, Old Secretariat, Patna.
3. The District Magistrate, Gopalganj.
4. The Additional Collector, Gopalganj.
5. The Sub-Divisional Officer, Gopalganj Sub-Division, District- Gopalganj.
6. The Land Reforms Deputy Collector, Gopalganj.
7. The Circle Officer, Thawe Circle, District- Gopalganj.
8. The District Accounts Officer, Gopalganj.
9. The District Provident Fund Officer, Gopalganj.
10. The Treasury Officer, Gopalganj.
11. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satish Chandra Mishra
For the Respondent/s : Mr.Subhash Chandra Yadav -GP15

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 06-10-2020 Heard Mr. Mr. Satish Chandra Mishra, learned

counsel for the petitioner, Mr. Rakesh Kumar Srivastava,

counsel for the State as also Mr. Vivekanand Kumar

representing the Accountant General.

In the present case, a small but important question
has been raised with regard to withholding of gratuity. The
reason has been assigned that the petitioner is facing criminal
case of accepting bribery led to initiation of the departmental



proceeding. No final order has been passed in the departmental proceeding and 90% pension has been paid to the petitioner but, he has been deprived of the gratuity amount.

The fact of this case is that the petitioner was initially appointed as Amin and posted in Gopalganj Bhodan Office, Gopalganj and promoted to the post of Revenue Clerk on passing the Hindi Noting and Drafting Examination. He was also granted first A.C.P. on 9.8.1999 and second A.C.P. in the year 2007. Accordingly, the salary was enhanced. While the petitioner was posted as Revenue Clerk, in Thawe Anchal of the Gopalganj district, a vigilance trap was conducted and found the petitioner receiving bribe of Rs. 6,000/- for doing some necessary work. On that account, the Vigilance P.S. Case No. 086 of 2014 was registered. He was put behind the bar. Later on, he was released. He was also put under suspension followed by departmental inquiry. The Inquiry Officer found the charges proved but, no final order could be passed but, he was released from suspension days before his superannuation. It appears that his only concern is that he is a superannuated employee of the State of Bihar. As per provision of Bihar Pension Rule, Rule 43(c) states that even if the person is facing departmental proceeding or judicial proceeding, he cannot be deprived of the



benefit of 90% pension and pensionary benefit including gratuity.

In that view of the matter, the action of the respondents of withholding gratuity is not sustainable and requires interference by this Court.

Learned counsel for the petitioner has placed reliance on the judgment passed in Civil Appeal No. 1677-1678 of 2020 (Dr. Hira Lal Vs. State of Bihar & Ors.) disposed of on 18.2.2020.

The State has tried to contradict the submission of the learned counsel for the petitioner but, he has conceded that there is Full Bench judgment of this Court passed in the case of Arvind Kumar Singh Vs. The State of Bihar & Ors. reported in 2018 (2) PLJR 933 wherein it has been made clear that if a person is facing departmental proceeding and by the time he got superannuated, he cannot be deprived of the pension and gratuity to the extent of 90%.

In view of the above, the impugned order contained in Memo No. 1835 dated 4.10.2017, whereby it has been communicated that the petitioner will not be entitled for gratuity, stands quashed and the respondents are directed to pay pension and its arrears including 90% of the gratuity to the



petitioner expeditiously preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

Accordingly, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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