

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18654 of 2018

Naresh Kumar S/o Jagdish Parihar, Resident of Village- Parsa, P.O.- Ram Patti, P.S.- Town, Distt- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Panchayati Raj Department, Bihar, Patna.
2. Zila Parishad Darbhanga through its Chairman.
3. Deputy Development Commissioner cum Chief Executive Officer Zila Parishad, Darbhanga.
4. Distt Engineer, Zila Parishad, Darbhanga.
5. Accountant cum head Clerk Zila Parishad, Darbhanga.
6. Treasurer, Zila Parishad, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Shahnawaz Ali
For the Respondent/s	:	Mr.Archana Meenakshee- GP6
For Zila Parishad	:	Mr. Vivek Prasad

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 24-09-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Heard the parties.

Following reliefs have been sought for in paragraph 1 of the present application on behalf of the petitioner:

“1 (i) A writ, order and direction in the nature of mandamus directing and commanding the respondent authorities for make payment of retirement dues of the petitioner be issued.

(ii) a writ order and direction in the nature of



mandamus directing and commanding the respondent authorities to make payment of gratuity, leave encashment and difference of salary along with penal interest @ 12 % to the petitioner and other admissible outstanding due of the petitioner for further delay from their own pocket of erring employee of Zila Parishad, Darbhanga, be issued.”

A counter affidavit has been filed on behalf of respondent nos. 2 to 6. Following statements have been made in paragraph nos. 8, 9 and 10 of the counter affidavit:

“8. That in reply to statement made in Para 6 and 7 of the writ petition, it is respectfully submitted that the benefit of ACP is not available to the employee of Zila Parishad as per decision of Panchayat Raj Department as contained in Letter No. 3220 dated 22.04.2010. The Hon’ble Court vide order dated 18.03.2010 passed in C.W.J.C. No. 3506/2010 upheld the decision of recalling the financial benefits under ACP Rules 2003. The LPA being LPA No. 1505 of 2010 also stood dismissed holding that ACP rules specifically excludes the autonomous institution from its applicability. The petitioner was wrongly given the benefit of 1st and 2nd ACP which transpired during course of review of the service book, after examination of the record the salary was found payable in following manner:

Basic Pay Scale on 31.01.2011	22790.00
One Pay Increment	+ 690.00
Difference of Grade Pay (5400-4200)	+ <u>1200.00</u>
Total-	24680.00

That due to incorrect fixation of pay scale of the petitioner a sum of Rs. 6,25,973.00 has been paid excess to what was done to the petitioner. The petitioner continued to receive higher pay scale till his superannuation on 31.01.2016.

9. That in reply to statement made in para 8 and 9 of the writ petition, it is respectfully submitted that



the Provident Fund amount has been directed to be released to the petitioner vide letter No. 11 dated 13.04.2017. The provident fund contribution of the Board was being credited in PF A/C No. 2407000400308817 of the petitioner with the Punjab National Bank and the Bank vide letter No. 11 dated 13.04.2017 has been requested to transfer the PF amount to the Savings Account No. 2407000400307845 of the petitioner. The gratuity amount of Rs. 10,20,195.00 has been paid vide office order dated 06.11.2018. A sum of Rs. 6,25,280.00 has been found payable under the head unutilized leave which has been adjusted against excess payment made to the petitioner.

10. That excess payment of Rs. 6,25,973.00 has been received by the petitioner during his posting at Zila Parishad, Darbhanga for the period February 2011 to January 2016. The benefit of ACP which is not payable to the employee of Zila Parishad was given to him when he was posted at Zila Parishad, Madhubani. Review of service book of the petitioner transpired payment of excess of Rs. 6,25,973/- under salary head and further against maximum gratuity payable amount to Rs. 10,00,000/-, a sum of Rs. 10,20,195/- has inadvertently been paid and as such the excess payment was adjusted against unutilized leave amount of Rs. 6,25,280/- and a demand for left over dues has been made against the petitioner. Giving calculation of excess payment a demand of Rs. 20888/- has been raised against the petitioner vide letter dated 19.11.2018.”

Considering the statements made by the respondents in its counter affidavit, it appears that most of the grievances of the petitioner have already been redressed by the respondents. If any such grievance still remains to be redressed, the petitioner



will be at liberty to file/make a representation before the competent authority who shall consider the representation of the petitioner and pass appropriate order in accordance with law within a period of three months from the date of making/filing of such representation.

With the aforesaid observation/direction, the present writ application stands disposed of.

(Sudhir Singh, J)

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