

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Civil Writ Jurisdiction Case No.9485 of 2018**

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Ashok Kumar Son of Sridhar Sinha, Resident of Mohalla-Ward No.1, Road No.23, Rajiv Nagar, P.S.-Rajiv Nagar, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Bihar, Patna.
3. The Accountant General of Bihar, Birchand Patel Path, Patna,

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Prabhu Nath Pathak, Advocate
For the Accountant General:		Mr. Raghwanand, Advocate
For the State	:	Mr. Patanjali Rishi, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 01-06-2020 This application has been placed for consideration by the order of the Hon'ble the Chief Justice through virtual court proceeding.

Heard Mr. Prabhu Nath Pathak, learned counsel for the petitioner, Mr. Raghwanand learned counsel for the Accountant General and Mr. Patanjali Rishi, learned counsel for the State.

The present writ application has been filed seeking a writ in the nature of writ of mandamus directing the respondents to pay the retiral benefits such as pension, gratuity, leave encashment of 300 days, group insurance and commutation with statutory interest and penal interest. The petitioner retired from



service as Executive Engineer, Works Division, Katihar on 31.01.2018 and at the time of filing of the writ application it was his grievance that nothing has been paid to him. He also made a statement in the writ application that no departmental proceeding or criminal proceeding was pending against him.

A counter affidavit as well as supplementary counter affidavit have been filed on behalf of respondent no. 2. A counter affidavit has also been filed on behalf of respondent no. 3. A perusal of these counter affidavits would disclose that the petitioner is being paid 90 per cent of the provisional pension and in this regard the sanction order has been brought on the record as Annexure 'A' to the counter affidavit filed on behalf of respondent no. 3. Office has also issued admissibility of the unutilised earned leave vide Annexure '3'. In the counter affidavit it has also come that the petitioner has been paid 90 per cent of his gratuity, the GPF and group insurance amount. It is relevant to State that a departmental proceeding has been initiated against the petitioner which fact has been disclosed in paragraph '9' of the counter affidavit filed on behalf of respondent no. 2. In the supplementary counter affidavit, respondent no. 2 has further stated that Prapatra 'K' has already been framed against the petitioner initiating a departmental



proceeding in the light of Rule 43(B) of the Bihar Pension Rules and as per Rule 17 of the Bihar Government Servant (Classification, Control and Appeal) Rules 2005, the Chief Engineer-3 Rural Works Department has been appointed as conducting officer and the department has also nominated the presenting officer for conducting the departmental proceeding initiated against the petitioner.

Learned counsel for the petitioner has in course of his argument sought to challenge the very initiation of the departmental proceeding but very soon learned counsel realised that in the present writ application the petitioner has not challenged departmental proceeding despite there being knowledge on his part at least after filing of the counter affidavit by the respondents.

Learned counsel for the petitioner has, having understood his difficulty in the present circumstance in pursuing this writ application submits that he may be granted liberty to challenge the departmental proceeding in a duly constituted writ application because the outcome of the departmental proceeding will have a bearing upon the payability of the remaining retiral dues of the petitioner.

Learned counsel for the respondents has no objection



to such liberty being granted to the petitioner to challenge the departmental proceeding in accordance with law.

This writ application is, thus, being disposed of at this stage giving liberty to the petitioner to challenge the departmental proceeding if so advised in accordance with law. The petitioner may claim his entitlement on account of retiral benefits if found entitled for the same on conclusion of the departmental proceeding. The issue to that extent remains open.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

