

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15715 of 2017

Hira Kant Jha, son of Late Uday Kant Jha village-Kaithania Tola, Lakshmanpur Police Station-Lakhnaur, Madhepur, District-Madhubani

At present resident of Circle no.249(B), Holding no.1051/70, near Bharti Vihar Apartment, West Patel Nagar, Patna-23

..... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Building Construction Department, Bihar, Patna
2. The Engineer-in-Chief cum Additional Secretary cum Special Secretary, Building Construction Department, Bihar, Patna
3. The Chief Engineer, Building Construction Department, Patna
4. The Accountant General, Bihar, Patna.

..... Respondents

Appearance

For the Petitioner : Mr. Uday Bhan Singh, Adv.

For the State : A.C. to GP 22

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

6 02.09.2020 Heard learned counsel for the petitioner and learned counsel for the State through video conferencing.

The petitioner has filed the instant application for directing the respondent authorities to pay the retiral benefits of the



petitioner after fixation of pay on the post of Superintending Engineer, for payment of all benefits including interest as per applicable law and for grant of all other reliefs to which he is found entitled to.

It is the case of the petitioner that he was initially appointed on the post of Assistant Engineer in the year 1961. In the year 1977 he was promoted as Executive Engineer and was promoted to the post of Superintending Engineer in the year 1994. He retired from service on 31.1.1996 after completing satisfactory service from the post of Superintending Engineer in the Department of Building Construction. It is submitted that in spite of being granted promotion to the post of Superintending Engineer and having worked on the said post till his retirement, the respondents have arbitrarily not fixed his pay on the said post and the petitioner is availing all the retiral benefits including pension for the post of Executive Engineer. It is stated that he had filed a detailed representation on 21.7.2017 before the Principal Secretary, Building Construction Department, Bihar, Patna which has been brought on record as Annexure-1 to the



application but the authorities have not responded with regard to fixation and payment to the petitioner. Hence, the instant writ application.

A counter affidavit was filed on behalf of the respondent nos. 1 to 3 stating therein that the petitioner superannuated in the year 1996 itself. He has submitted an application on 28.7.2017 to the Building Construction Department claiming that his pension has not been paid in the pay scale of Superintending Engineer, although his provisional pension payment order describes him by the said post. It is further stated that the representation of the petitioner was forwarded to the Road Construction Department vide letter no.7190 dated 16.8.2017 with the statement that no record of the petitioner was available with the Building Construction Department. The Road Construction Department informed vide letter no.6603 dated 28.8.2018 that the service of the petitioner had been transferred vide Departmental Notification no. 5675 dated 11.8.1994 to the Building Construction Department as incharge Superintending Engineer and it was also informed that there is no order



regarding his regular promotion as Superintending Engineer.

Thus in view of the stand of the respondents, the case was adjourned enabling learned counsel for the petitioner to bring on record documents/orders showing promotion of petitioner as regular Superintending Engineer.

On the matter being taken up again, it is submitted by learned counsel for the petitioner that in view of the prevailing situation of the spread of Covid pandemic he has not been able to file further affidavit for lack of instructions. A prayer is made that the writ application be disposed of.

This Court also does not deem it expedient to keep the application pending.

Accordingly, this writ application is disposed of with liberty to the writ petitioner to file a fresh representation along with a copy of this order and all supporting documents before the Principal Secretary, Building Construction Department, Bihar, Patna (respondent no.1) before whom the earlier representation dated 21.7.2017 (Annexure-1) was filed. The Principal Secretary,



Building Construction Department, Bihar shall decide the representation of the petitioner within a period of three months from the date of receipt of the same and in case any monetary benefit is found payable, the same shall be paid to the petitioner within three months of disposal of the representation.

The writ application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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