

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22026 of 2019

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Shobha Kant Jha, Son of Late Bauvalal Jha, Resident of Navhath, P.S.-Pandaul,
District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Water Resources Department, Bihar, Patna.
3. The Engineer-in Chief (Head Quarter), Water Resources Department, Bihar, Patna.
4. The Chief Engineer, Flood Control and Drainage Water Resources Department, Muzaffarpur.
5. S.E. Flood Control and Drainage Circle, Motihari
6. The Executive Engineer, Flood Control Division, Motihari.
7. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur, Adv.
For the Respondent/s : Mr. Sanjay Prasad, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 22-06-2020 Heard learned counsel for the parties.

2. The petitioner retired with effect from 28.02.2018, while working as Junior Engineer under Water Resources Department, Government of Bihar. He has filed the present writ application seeking following reliefs:-

- “(i) For issuance of writ in the nature of mandamus commanding and directing the Respondents authority to make payment of amount of Gratuity along with interest to the petitioner who has been retired in the month of February 2018.*
- (ii) For further direction to the*



Respondents authority to pay full salary of the petitioner of suspension period i.e. 27.7.2016 to 12.9.2017 after deduction of subsistence allowances and after conclusion of the departmental proceeding there is no finding for withholding for remaining salary of suspension period and for further direction to the Respondents authority to pay remaining salary of suspension period referred above along with statutory interest.

(iii) For further direction to the Respondents authority to make payment of current pension and arrear of dues of pension along with statutory interest upon the due amount.”

3. A counter affidavit has been filed on behalf of the State of Bihar stating, *inter alia*, that the departmental proceeding, which was initiated against the petitioner, concluded with passing of an order dated 14.10.2019, whereby apart from imposing punishment for proved misconduct, a decision has been taken that for the period during which the petitioner had remained under suspension, he shall not be entitled to any further payment beyond subsistence allowance already paid to him.

4. Dealing with the petitioner's claim of payment of post-retiral dues, it has been stated in the counter affidavit that the respondents have noticed a loss of sum of Rs. 10,69,297=00



of the State Exchequer because of shortage of boulders, which was under petitioner's charge. A finding to the aforesaid effect has been given by a Committee constituted by the Executive Engineer, Flood Control Division, Motohari.

5. It does not appear, however, from the counter affidavit that any proceeding has been initiated for withholding of the petitioner's pension and gratuity.

6. In the facts and circumstances of the case, this application is disposed of with a direction to the respondents to consider the petitioner's claim for payment of post-retiral dues in accordance with law and take a final decision within a period of three months from the date of receipt/ production of a copy of this order.

7. It goes without saying that the petitioner shall be at liberty to question the legality of the order dated 14.10.2019 in appropriate proceeding in accordance with law.

(Chakradhari Sharan Singh, J)

Rajesh/-

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