

IN THE HIGH COURT OF JUDICATURE AT PATNA
C.W.J.C. No. 22115 of 2019

Tej Narayan Singh, son of Late Ram Nagina Singh, resident of New Bypass Road, Mohalla-New Hamichak, P.S.-Beur, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Chief Secretary, Government of Bihar.
3. The Bihar Public Service Commission, Patna through its Secretary, Bailey Road, Patna.
4. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
5. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.
6. The District Provident Fund Officer, Patna, Bihar.
7. The Treasury Officer, Patna, Bihar.
8. The Accountant General, Bihar, Patna.
9. The Additional Director General, Vigilance, Patna.

.. ... Respondents

Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate
For the Respondent State:	:	Mr. Rakesh Prabhat, A.C. to SC-21
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7. 25-08-2020

Heard learned counsel for the parties.

This application has been filed seeking following

reliefs :

“For Issuance of a writ of mandamus or any other appropriate writ(s)/order(s)/direction(s) for commanding and directing the respondent authorities to pay the following rest amount of retirement benefits with statutory interest such as : -

i. To pay the rest amount of Gratuity and leave salary after calculating the same on the pay scale existed at the time of retirement i.e. 30.11.2012.

ii. To pay the amount of pension on the basis of existing pay scale as on the date of retirement.

iii. To fix the pensionary benefit on the basis of



pay scale determined after granting the 1st, 2nd ACP and MACP on the revised pay scale under 6th Pay Revision Commission report.

iv. To pay Rs.1000/- per month medical allowance which is permissible in law, to the petitioner from date of retirement till date.

v. To direct the respondent authorities to pay the monthly pension which has wrongly stopped from Feb-2019 without issuance of any show cause notice to the petitioner.

vi. To pay all the consequential benefits attached to the post.

vii. To pay the interest on due amount till the date of actual payment.

For issuance of such other order/direction for which the petitioner may be found legally entitled to in the facts and circumstances of the case as stated hereinafter.”

The petitioner was an employee under the Bihar Public Service Commission. It transpires from the pleadings on record that on the charge of misconduct, a departmental proceeding was initiated against him. In respect of the same misconduct, criminal cases are also pending. It also transpires that by an order dated 29.11.2011, punishment of dismissal from service was imposed upon the petitioner in the departmental proceeding. The said order was put to challenge before this Court by way of writ application, giving rise to C.W.J.C. No. 10227 of 2013, which was allowed by an order dated 09.10.2014. The matter was remitted back to the Bihar Public



Service Commission for taking a decision afresh. In the meanwhile, the petitioner had attained the age of superannuation on 30.11.2012.

It appears that invoking the provisions under Rule 43(b) of the Bihar Pension Rules, which applies to the employees of the Bihar Public Service Commission also, after giving the petitioner an opportunity of dealing with the report of the Enquiry Officer in the earlier proceeding, punishment of withholding 10% of monthly pension permanently was imposed on 10.01.2017.

As is evident from the relief, which the petitioner is seeking, he has a grievance that his pension, after imposition of punishment of withholding 10% of pension, has been fixed on the basis of the pay which he was drawing in 2006. It is his claim that his pension should have been fixed on the basis of pay, which he was entitled to on the date of his superannuation.

It is not evident from the pleadings on record that the petitioner ever approached the Bihar Public Service Commission raising the grievance, which he has raised in the present writ application.

Mr. Sanjay Pandey, learned counsel representing the Bihar Public Service Commission, has submitted that pension of the petitioner has been rightly fixed on the basis of his pay,



which he had drawn in 2006, because he had remained under suspension throughout for all the years till the date of his superannuation in 2012.

Be that as it may, considering the facts and circumstances, this writ application is disposed of with an observation that let the petitioner first represent the Bihar Public Service Commission raising his grievance, which he has raised in the present writ application. Question of considering the claim of the petitioner will arise only after the same is specifically denied by the respondent Bihar Public Service Commission.

It is accordingly ordered that if the petitioner files a representation within one month from today, the Bihar Public Service Commission will be obliged to take a final decision within two months thereafter. In case the petitioner's claim does not find favour with the respondents, the respondents shall be obliged to pass a reasoned and speaking order.

This writ application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

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