

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18940 of 2018

Binod Raut @ Binod Mehtar Son of Late Tunni Raut, Resident of Gumti No.-
2, Mangal Bazar, P.S.- Kotwali, District- Munger.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Urban Development, Government of Bihar, Patna
2. The District Magistrate, Munger.
3. The Chairman, Munger Municipal Corporation, Munger.
4. The Municipal Commissioner, Munger Municipal Corporation, Munger.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Karuna Nath Sahay, Advocate
For the State	:	Mr. Shiv Kumar AC to GA3
For the Corporation	:	Mr. Shivendra Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 08-06-2020 Heard learned counsel appearing on behalf of the

petitioner, learned counsel appearing on behalf of the State as

well as learned counsel for the Corporation.

The petitioner has approached this Court for issuance
of writ or writs/order or orders/direction or directions in the
nature of writ of Mandamus directing the respondents to pay the
retiral dues including the pension and other admitted dues with
statutory interest to the petitioner which are as follows:-

*“(i) Difference of amount of pay from
1983 to 1989 in accordance with third pay
revision.*



(ii) Difference of amount of pay from 1989 to 1997 as per fourth pay revision.

(iii) Difference of amount of pay from 1997 to March, 2007 in accordance with fifth pay revision.

(iv) Difference of amount of pay as per sixth pay revision from October, 2007 to till date of retirement.

(v) Benefit of ACP

(vi) Amount of Pension from the date of retirement.

(vii) Amount of unutilised leave.

(viii) Amount of C.P.F. with interest.”

Learned counsel appearing on behalf of the petitioner admits that the petitioner has been paid gratuity and leave encashment but he has not been paid difference of amount of pay for the period 1983 to 1989 in terms of 3rd PRC; difference of amount of pay for the period 1989 to 1997 in terms of 4th PRC; difference of amount of pay for the period 1997 to March 2007 in terms of 5th PRC and difference of amount of pay in terms of 6th PRC for the period October 2007 till the date of retirement.

Learned counsel appearing on behalf of the respondent-Munger Municipal Corporation submits that gratuity and leave encashment has been paid to the petitioner as he is entitled to the same.

Learned counsel appearing on behalf of the petitioner has placed reliance upon the judgment of the Apex Court in the



case of **Sanchari Devi & Ors. Vs. Ara Municipal Corporation & Ors.** [2015 (1) PLJR (SC) 370] to submit that similar issue was decided by the Apex Court and in the light of the Apex Court the petitioner is entitled to pension.

The submission of the Municipal Corporation that the petitioner has not opted to exercise his option in writing is not a ground to deny the pension as per decision of the Apex Court in the case of **Sanchari Devi** (supra) where in the similar situation the Apex Court held out that not exercising option is immaterial in the matter of pension.

In the light of the decision of the Apex Court in the case of **Sanchari Devi** (supra), the writ petition is disposed of with direction to the respondents to pay all the pensionary benefits forthwith. So far as difference of amount of pay for the period mentioned above is concerned, the respondents are directed to take appropriate decision within a period of three months from the date of receipt /production of a copy of this order and ensure payment thereof. Failure to do so on the part of the respondents would entail interest at the rate of 9% from the date of filing of the writ petition till actual payment of the amount.



With the aforesaid, the present writ petition stands
disposed of.

(Anil Kumar Upadhyay, J)

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