

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.207 of 2019

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Nand Lal Paswan S/o Late Nageshwar Paswan, Resident of Village-
Sarauni, P.S. Kauwakol, Distt.-Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Commissioner, Magadh Pramandal, Gaya .
3. Collector, Nawada.
4. Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Shruti Sinha
For the Respondent/s : Mr.Md.Nadim Seraj -GP5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 23-09-2020 Heard Ms. Shruti Sinha, learned counsel for the

petitioner and Mr. Nadim Seraj for the State as also Mr. Shiv
Kumar representing the Accountant General.

In the present case, the petitioner has made two
prayers, firstly, the petitioner is getting pension at the rate of
75% whereas the petitioner is entitled to 90% and secondly, the
petitioner has been deprived of gratuity on account of pendency
of a departmental proceeding as well as criminal proceeding in
Special Case No. 56 of 2006 relating to the vigilance matter.

Learned counsel for the petitioner submits that the
petitioner is entitled to 90% gratuity placing reliance on the
provision of Section 43(C) of the Bihar Pension Rules.



Learned counsel for the State submits that in view of the circular issued by the State of Bihar, the retiral dues has been paid as per the guideline whereas learned counsel for the A.G. has made reliance on the Full Bench judgment of this Court passed in the case of Arvind Kumar Singh Vs. State of Bihar & Ors. reported in 2018 (2) PLJR 933 wherein the same issue came for consideration and it has been decided that during pendency of a departmental proceeding as well as the criminal proceeding, the person, who has superannuated from service, cannot be deprived of the pension at the rate of 90% and gratuity at the rate of 90%.

In view of the aforesaid Full Bench judgment of this Court and considering Section 43(C) of the Bihar Pension Rule, it is very much clear that the person, who is facing departmental proceeding of any nature, cannot be deprived of the 90% as also gratuity at the rate of 90%.

Looking to the entire facts and circumstances of the case, this Court directs the respondents to make payment of the pension and arrears of pension at the rate of 90% and also release the amount of gratuity to the petitioner at the rate of 90%.

The entire exercise should be completed by the



respondent authorities within a period of eight weeks from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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