

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6614 of 2020

Indradeo Chaturvedi Son of late Sheo Awtar Chaturvedi resident of Village- Mahuari, P.O.- Patherdewa, P.S.- Tarkulawa, District- Deoria (Uttar Pradesh), retired In-charge Head Master, Higher Secondary School, Jamunaha Bazar, P.O.- Chitauna, P.S.- Kateya, District- Gopalganj (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Secondary Education, Government of Bihar, New Secretariat, Patna.
2. The Regional Deputy Director Education, Saran at Chapra.
3. The District Magistrate, Gopalganj.
4. The District Education Officer, Gopalganj.
5. The Accountant General, Bihar, Patna.
6. The In-charge Head Master, Higher Secondary School, Jamunaha Bazar, P.O.- Chitauna, P.S.- Kateya, District- Gopalganj (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. M. N. Parbat, Sr. Adv.

Mr. Praveen Prabhakar

For the Respondent/s : Mr. Arvind Kumar, AC to GP 23

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

Date : 23-08-2021

Heard Mr. M. N. Parbat, learned Senior Counsel for the petitioner and Mr. Arvind Kumar, learned Assistant Counsel to Government Pleader No. 23, for the State.

2. The petitioner has filed the present writ application for payment of pension and gratuity upon his retirement from the post of Incharge Headmaster, Higher Secondary School, Jamunaha Bazar, Gopalganj, on 30.06.2016.



3. Mr. M. N. Parbat, learned Senior Counsel for the petitioner, submits that the petitioner was appointed on 26.10.1978, on the post of Assistant Teacher and retired on 30.06.2016, from the post of Incharge Headmaster. Referring to Annexure-1, learned Counsel submits that at the time of retirement, on 30.06.2016, the petitioner handed over charge to the senior most teacher of the school, namely, Sri Pramod Kumar Pandey, as per the direction of the authorities. Annexure-4 is the service book of the petitioner and relying upon the same, learned Counsel submits that in the service book, the then Incharge Headmaster of the school has given 'No Dues Certificate' and 'No Objection Certificate' in favour of the petitioner on 26.04.2018, after proper verification and on the basis of the said certificates, the Accountant General has also issued Pension Payment Order (PPO), dated 15.03.2019 (Annexure-5). Learned Counsel further submits that the respondent authorities, on the lame excuse that the petitioner has not handed over the entire charge at the time of his retirement, has withheld the pension and gratuity of the petitioner. He, relying upon Annexures 1 and 4, submits that at the time of handing over charge by the petitioner and in the service book also, it is not mentioned that the petitioner has not handed over the complete charge and it is also not clarified in the communication



made by the respondent authorities that what more item is required to be handed over by the petitioner. Accordingly, learned Counsel submits that non-payment of pension and gratuity to the petitioner, despite PPO having been issued, is completely arbitrary and mala fide.

4. On the other hand, learned Counsel for the State, referring to the contents of the counter affidavit, submits that the Incharge Headmaster of the school requested the petitioner for handing over the entire charge, vide letter no. 129, dated 05.12.2019, but the petitioner has not handed over the entire charge, due to which the pension and gratuity of the petitioner was not being paid. He further submits that the respondent no. 4-the District Education Officer, Gopalganj, vide letter no. 315, dated 19.03.2020, has sent 'No Dues Certificate' to the Treasury Officer, Gopalganj, for payment of pension only and it has further been mentioned in the said letter that except pension, all other payments shall be made to the petitioner after handing over the entire charge.

5. Having heard learned Counsel for the parties concerned and after going through the materials available on record carefully, I find that at the time of retirement, the petitioner had handed over the charge to the senior most teacher of the school and at the time of taking over the charge, the concerned



teacher did not mention about non-submission of the entire charge by the petitioner. Further in the service book, while recording 'no dues' and 'no objection' in favour of the petitioner, it has not been clarified that the petitioner has not handed over the entire charge.

6. From the submission of learned Senior Counsel for the petitioner and the contents of the counter affidavit, it appears that the respondent no. 4 has forwarded the 'No Dues Certificate' to the Treasury Officer, Gopalganj, for payment of pension, but the payment of gratuity has been withheld on the ground that the same would be paid after handing over the entire charge by the petitioner. I find that none of the communication made by the respondent authorities mentions the details of left over charges, which the petitioner is required to hand over and it appears that after issuance of PPO by the Accountant General, the respondent authorities is taking a plea of non-submission of entire charge by the petitioner.

7. Accordingly, I find that non-payment of pension and gratuity to the petitioner by the respondent no. 4 and the Treasury Officer, Gopalganj, is completely arbitrary. As such, the respondent no. 4 and the Treasury Officer, Gopalganj are directed to ensure payment of arrears of pension along with current pension and admitted gratuity amount to the petitioner within a period of



six weeks from the date of receipt/production of a copy of this order.

8. With the aforesaid observations and directions, this writ application is allowed.

9. However, there shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-09-2021
Transmission Date	N/A

