

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7194 of 2019

=====

Salestin Hansda Son of Late Shamu Hasda Resident of Village- Aamgarhi Kurba, P.O.- T.D. Dumariya Via Palajuri Haat, P.S.- Jama, District- Dumka, Jharkhand.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director Primary Education, Department of Education, Govt. of Bihar, Patna.
4. The Director Provident Fund, Govt. of Bihar, GPF Directorate, 5th Floor, Panth Bhawan, Patna.
5. The Accountant General, Bihar, Patna.
6. The Accounts Officer, Office of Accountant General, Bihar, Patna.
7. The Director Administration, Department of Education, Govt. of Bihar, Patna.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Tej Bahadur Singh, Senior Advocate Mr. Brisketu Sharan Pandey
For the Respondents	:	Mr. Madhaw Prasad Yadav, G.P.-23

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

10 13-08-2021 The petitioner retired after attaining the age of superannuation with effect from 31.05.2015, while working as District Programme Officer, Primary Education and Literacy, Madhepura, under Bihar Education Service.

This writ application has been filed seeking direction for payment to the petitioner his post retiral dues against various heads. Considering developments subsequent to filing of the writ application, all pleadings on record are not required to be



taken note of. Suffice it to say that admittedly, payments have been made against various heads to the petitioner. However, there is some dispute with respect to payment against General Group Insurance amount and the arrears of salary during the period when the petitioner was waiting for posting. There is another aspect of the matter. A disciplinary proceeding was initiated against the petitioner, which finally culminated into passing of an order under Rule 43(b) of the Bihar Pension Rules on 04.11.2020, whereby punishment of withholding 25 percent of pension permanently has been imposed. In the meanwhile, i.e. after the date of his retirement, the petitioner was granted provisional pension at the rate of 90 percent of the full pension.

Relying on a decision of this Court in case of *Vijaya Kumari Vs. The State of Bihar and others*, reported in **2021(2) PLJR 190**, Mr. Tej Bahadur Singh, learned Senior Counsel appearing on behalf of the petitioner has argued that the said order of punishment shall have prospective effect in the absence of any specific stipulation that it shall operate from the date of petitioner's superannuation. He has accordingly submitted that the respondents should not be allowed to apply the said order of punishment retrospectively, which would have the effect of recovery of the amount of pension paid to the petitioner at the



rate of 90 percent of full pension by way of provisional pension.

It goes without saying that an order of punishment shall operate with effect from the date of issuance of the order unless specifically provided otherwise. Accordingly, it is held that the order of punishment dated 04.11.2020 withholding 25 percent pension shall operate prospectively from the date of its issuance.

It is noted here that the petitioner has already been granted liberty to question the legality of the order of imposing punishment under Rule 43(b) of the Bihar Pension Rules in appropriate proceeding in accordance with law. So far as petitioner's grievance relating to payment of Group Insurance and salary for the period during which he was waiting for posting, it is directed that if the petitioner has made any representation or makes any representation along with a copy of the present order before the competent authority, the same shall be considered and disposed of within a period of three months thereafter. The respondents shall ensure that calculation of the amount against the aforesaid two heads is provided to the petitioner along with the decision on the petitioner's representation. If the petitioner is found entitled to any amount payable to him, the same must be paid soon thereafter.



This application stands disposed of with the aforesaid
observation and direction.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

