

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8141 of 2020

Amrendra Kumar Mishra (M), aged about 61 years, son of Birendra Kumar Mishra, resident of 1398, 09, 8A, Bokaro Steel City, Sector IX, Police Station- Harla, District- Bokaro (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary-cum-the Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Director Administration-cum-the Additional Secretary, Education Department, Bihar, Patna.
5. The District Education Officer, Siwan.
6. The District Programme Officer (Establishment), Siwan.
7. The Accountant General, Birchand Patel Path, Bihar, Patna.
8. The Accounts Officer, Pay and Accounts Office, Birchand Patel Path, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the State	:	Mr. Prabhakar Jha, GP 27 with Mr. Mukund Mohan Jha, AC to GP 27
For the Accountant General	:	Mr. S M Ehtesham, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-02-2021

Heard Mr. Umesh Kumar Mishra, learned counsel for the petitioner; Mr. Prabhakar Jha, learned GP 27 along with Mr. Mukund Mohan Jha, learned AC to GP 27 for the State and Mr. S M Ehtesham, learned counsel for the Accountant General.

2. The petitioner has moved the Court for the following reliefs:

“1. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to pay the pensionary benefits i.e. gratuity,



unutilized leave and pension without any further delay, as the petitioner has retired on 31.10.2019 as the District Programme Officer, Secondary Education and Literacy, Siwan, but till date, his pensionary benefits has not been paid to him.

II. For issuance of an appropriate writ in the nature of mandamus for commanding directing the respondent authorities concerned to pay the retiral benefits/ pensionary benefits without any further delay for which the petitioner is entitled as due to non-payment the petitioner is suffering a lot and unable to meet the medical and other expenses, which is evident from the representations/request filed by the petitioner before the respondent authorities concerned.

III. For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the petitioner will be found entitled in the facts and circumstances of the case”.

3. In view of the pleadings on record, it is not in dispute that provisional pension and gratuity has been paid and, now, only the leave encashment has been withheld.

4. Learned counsel for the State submitted that a departmental proceeding is pending against the petitioner.

5. In view of the judgment of the Full Bench in ***Arvind Kumar Singh Vs. The State of Bihar and others*** [2018(2) PLJR 933], the authorities have the discretion to withhold the leave encashment till the pendency of the departmental proceeding.

6. Learned counsel for the State fairly submitted that the remaining dues of the petitioner shall be finalized and paid



in terms of the final order that shall be passed in such departmental proceeding.

7. The aforesaid position being in accordance with the law operating in the field, the Court does not find anything further remains, for the present, in the writ application.

8. Accordingly, the same stands disposed off.

9. It goes without saying that final payment will be required to be made by the authorities in terms of the order passed in the departmental proceeding and further, that the petitioner, if aggrieved by such final order, shall be at liberty to move before the appropriate forum, in accordance with law.

10. On the apprehension expressed by the learned counsel for the State that the petitioner might not cooperate in the departmental proceeding, learned counsel for the petitioner assured that he shall cooperate. As both the parties have agreed that the Court may indicate a time frame, let the proceedings be completed at the earliest, preferably, within six months from the date of production of a copy of this order before the Disciplinary Authority.

(Ahsanuddin Amanullah, J)

J. Alam/-

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