

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7533 of 2017

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Kamla Nath Prasad Singh Son of Late Resman Prasad Singh, Resident of
Village- Jagdishpur Tola- Diulia, P.S.- Nautan, District- West Champaran
at Bettiah.

... .. Petitioner

Versus

1. The State Of Bihar
2. Director, Primary Education, Government of Bihar, Patna.
3. District Education Officer, West Champaran, Bettiah.
4. District Programme Officer Establishment- Cum- District Superintendent
of Education, West Champara
5. Block Education Officer, Majholia, District- West Champaran.
6. District Provident Fund Officer, District- West Champaran, Bettiah.
7. Accountant General, Bihar, Patna.
8. Head Master-cum- Drawing and Disbursing Officer, Middle School,
Ahwar Sheikh, Majholia- 1, District

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar
Mr. Baleshwar Kamat
For the Respondent/s : Mr. Madhaw Prasad Yadav-Gp23

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

10 28-01-2021

Heard Mr. Sunil Kumar, learned counsel for the
petitioner and Mr. Madhaw Prasad Yadav, learned G.P. -23
for the State.

This writ petition has been filed for a direction
to the respondents to make payment of G.P.F., group
insurance, gratuity, pension and the arrears of salary to the



petitioner.

The petitioner during his tenure of service was made accused in a case under Section 302 of the Indian Penal Code and was convicted for the said offence. The appeal against the aforesaid conviction has also been dismissed by the High Court as also by the Hon'ble Supreme Court.

However, from the records, it does not appear that the petitioner was dismissed from service because of his conviction in the aforementioned criminal case. When this matter was pointed out to the learned G.P. -23, he sought time of the Court to file supplementary affidavit. However, Mr. Yadav, today again has addressed the Court on the proviso 2 to Article 311 of the Constitution of India and submits that in the event of conviction of an employee for a criminal charge, no enquiry for dismissal is required.

There does not appear to be any dispute about that proposition of law but the Court wanted to know from the State as to when was the petitioner dismissed from the service.



During the period of trial of the petitioner for such criminal offence, the petitioner superannuated.

An explanation has been brought on record by way of supplementary counter affidavit that nothing is payable to the petitioner by way of pension as he would be deemed to have been dismissed retrospectively from the date of his conviction. This prima facie does not appear to be tenable for the reason that an order of dismissal has to be passed before avoiding to make payment of pension to the petitioner. From what date would such decision be applicable has also to be specified.

On this observation, Mr. Madhaw, learned G.P. -23 for the State has submitted that the service records of the petitioner cannot be traced.

This cannot be an explanation for not paying to the petitioner his post retiral dues to which he is entitled. The counter affidavit further indicates that some other post retiral dues of the petitioner are in the process of being paid to him but it has not yet been paid only because of non-cooperation of the petitioner.



Under the aforesaid circumstances, this Court directs that in the event of the petitioner making a detailed representation with respect to his entitlement and furnishing documents in support of the same before respondent no. 2 /the Director, Primary Education, Govt. of Bihar, Patna within a period of four weeks, the concerned respondent shall look into the entire aspect of the matter and pass a reasoned order in accordance with law within a further period of eight weeks thereafter. Whatever amount is payable to the petitioner shall be paid to him without any delay.

The order passed by respondent no. 2 has to be a reasoned order and it shall be communicated to the petitioner forthwith.

The writ petition stands disposed of.

(Ashutosh Kumar, J)

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