

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15697 of 2017

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Ghanshyam Mahto Son of late Sitaram Mahto Resident of ward no. 1,
Lahairiyaganj, P.S. Town, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Executive Officer, Nagar Parishad Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Shahnawaz Ali, Advocate
For the Respondent/s	:	Mr. Rakesh Ambastha, AC to AAG 7
For the Resp no. 2	:	Mr. Purshottam Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 19-01-2021

Heard the parties thorough video conferencing.

The petitioner has filed the instant writ application for directing the respondent authorities to make payment of the retiral benefits of the petitioner under the head of arrears of difference of salary, gratuity, leave encasement, insurance and GPF amount along with statutory interest thereon.

The case of the petitioner in brief is that he was appointed in the year 1984 in Nagar Parishad, Madhubani. He was subsequently promoted on the post of Assistant and finally superannuated with effect from 1.8.2014. Not having been paid his post retiral dues he filed the instant writ application.

A number of counter affidavits have been filed on behalf of the Nagar Parishad, Madhubani. In the supplementary



counter affidavit filed on behalf of the Madhubani Nagar Parishad it has been stated in paragraph nos. 5 and 6 thereof as follows :

“5. That it is humbly stated that total amount payable to the petitioner under the head of Gratuity of a sum of Rs. 4,26,000/- and Provident Fund Rs. 62,986 and Earn Leave Rs. 1,71,347 Total being Rs. 6,60,333/- out of which Rs. 2,94,333/- has been paid to her vide different Cheques on different dates earlier and the rest of a sum of Rs. 3,66,000/- as per admissible dues payable to the petitioner at present has also been paid to him on 01.10.2018 vide cheques no. 23070 as is proved from the chart annexed herewith.”

“6. That it is further relevant to state that in the Nagar Parishad Madhubani, insurance is not payable and so far the claim of petitioner regarding difference of salary on the basis of 5th and 6th pay Revision is concerned that is yet to be finalized in terms of the Letter of the State Government, Nagar Vikash and Awas Vibhag bearing No. 4061 dated 27.07.2018 as observed by this Hon'ble Court vide order dated 30.07.2018 passed in CWJC No. 12268 of 2017 and analogous cases.”

In reply to the above supplementary counter affidavit of the Nagar Parishad, Madhubani, the petitioner has filed his rejoinder, paragraph nos. 3 and 4 of which are quoted herein



below for ready reference :

“3. That so far the statement made in Paragraph no. 5, it is stated that the petitioner was not paid as per the demand made by the petitioner. The gratuity of the petitioner comes to Rs. 483450/- out of which Rs. 426000/- have been paid. Rs. 32450/- as per 4th pay scale is still due against the respondent. That Earn Leave comes Rs. 175800/- out of which Rs. 171347/- is paid. And Rs. 4453/- is still due against the respondent. P.F. is also not paid properly. The difference of salary since the day of appointment on 17.10.1984 to the date of retirement on 01.08.2014 is still due of the petitioner against the respondent as per 5th and 6th pay. The benefit of ACP is also not given to him.”

“4. That the statement made in paragraph no. 7, is denied and is stated that the petitioner filed a representation on 22.2.2018 then the pension for the month of November 2016 to February 2017 was paid only and rest of the pension since March 2017 to November 2018 was not paid and is due till date but it is falsely stated that pension is also being paid to the petitioner. The working employees is getting their salary as per 7th pay scale in Nagar Parishad Madhubani and respondent is misleading the court only. The pension for about 23 months is due till date.”



Having heard learned counsel for the parties and taking into consideration the fact that the petitioner retired as far back as in the year 2014 and filed the instant writ application in 2017, yet the total post retiral dues have still not been paid to him.

It is directed that the petitioner shall file a representation before the Executive Officer, Nagar Parishad, Madhubani along with a copy of this order and the Executive Officer, Nagar Parishad Madhubani shall pay the total remaining amount under the head of post retiral dues together with item-wise details of calculation to the petitioner within a period of four months from the date of receipt/production of a copy of this order.

In case the total post retiral dues along with statutory interest are not paid to the petitioner within the aforesaid period, the respondent no. 2 shall also pay the cost of Rs. 25,000/- to the petitioner.

The writ application stands disposed off with the above observations and directions.

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

