

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16183 of 2018

Sanjay Kumar Singh Son of Late Rajeshwar Prasad Singh, Resident of Village-102 B, Prashray Apartment, Arrah Garden, P.S.-Repaspur, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Additional Secretary, Rural Works Department, Government of Bihar.
4. The Officer on Special Duty Rural Works Department, Government of Bihar.
5. The Engineer-in-Chief, Rural Works Department Government of Bihar, Patna.
6. The Chief Engineer No.4-Cum-Controlling Officer, Rural Works Department, Government of Bihar, Patna
7. The Accountant General, Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Srivastava, Advocate
For the State	:	Mr.Kumar Alok, SC-7
For Accountant General:		Mr.Dhaneshwar Vashist, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 25-02-2021 Heard Mr. Ranjan Kumar Srivastava, learned counsel for the petitioner and Mr. Kumar Alok, learned SC-7 on behalf of the State as also Mr. Dhaneshwar Vashist, learned counsel representing Accountant General, Bihar, Patna.

Initially, this writ application was preferred for the following reliefs:-

“(i) To issue an appropriate writ/writs, order/orders, direction/directions in the nature of mandamus for commanding/directing the



respondents to pay the full pension and gratuity with statutory interest along with the amount deducted from leave salary and other admissible retiral dues to the petitioner. As the petitioner retired from service on 31.08.2014 as Executive Engineer in Rural Works Department, Hathua, District-Gopalganj. He filed several representation to the respondents with regard to make full pension and gratuity and to drop the pending proceeding in view of the facts that no charges have been proved and similarly situated Assistant Engineer namely Sri Alok Kumar Thakur and Junior Engineer Sahdeo Chaudhary have been exonerated from the charges.

(ii) For any other relief/reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”

During pendency of the writ application, the developments have been taken note of from time to time by this Court. Petitioner has received the balance amount outstanding on account of gratuity. In the disciplinary proceeding the final order imposing a punishment of deduction of 5% of the pension amount for a period of 5 years has been passed. The said decision as contained in notification no. 1506 dated 19.09.2020 has been challenged by filing an interlocutory application seeking amendment of the writ petition.



The Interlocutory Application No. 01 of 2020 was taken up for consideration on 04.02.2021. Time was granted to learned counsel for the State to file an additional counter affidavit. Accordingly, an additional counter affidavit has been filed on behalf of the State.

The I.A. No. 01 of 2020 is allowed. Prayer made therein and the averments shall form part and parcel of the writ application.

After hearing learned counsel for the petitioner and learned counsel for the State, it is found that the impugned order as contained in Annexure '2' to the Interlocutory Application No. 01 of 2020 has been passed taking note of the fact that the disciplinary authority has differed with the opinion of the Inquiry Officer and then the points of the difference of opinion of the disciplinary authority were communicated to the petitioner but no reply was received on his behalf.

Learned counsel for the petitioner submits that he will be satisfied at this stage if a copy of the enquiry report is supplied to him and an opportunity is given to file a reply to the departmental letter no. 2706 dated 05.09.2019 containing the difference of opinion of the disciplinary authority. Learned counsel submits that the copy of the enquiry report and the



points of difference of opinion were not received by the petitioner.

Learned counsel for the State has not controverted the submission of learned counsel for the petitioner and submits that in case the Court would direct the competent authority to give the petitioner an opportunity to submit his reply on the points of difference of opinion of the disciplinary authority, a copy of the same shall be made available to the petitioner within four weeks from today and the petitioner may submit his reply thereto, whereupon the disciplinary authority shall pass a final order.

In the aforesaid view of the matter without going into the merit of the submissions and delving with claims and counter claims as regards the guilt of the petitioner, this Court thinks it just and proper to set-aside the impugned order contained in Annexure '2' on the ground of violation of principle of natural justice alone.

Let a copy of departmental letter no. 2706 dated 05.09.2019 containing the points of difference of opinion of the disciplinary authority together with a copy of the enquiry report be made available to the petitioner within four weeks from today. The petitioner shall submit his reply to the same within



two weeks from the date of receipt of the letter. The disciplinary authority shall, thereafter, consider the same and pass an appropriate order within four weeks from the date of receipt of the reply of the petitioner.

Learned counsel for the petitioner submits that the petitioner has been paid his gratuity amount with a delay of over six years, however, no statutory interest thereon has been paid.

Learned SC-7 submits that normally the gratuity earns statutory interest, however, he has no instruction on this issue as to whether the petitioner has been paid statutory interest for the delayed period or not.

Be that as it may, let the petitioner represent before the competent authority on this issue who will look into the same and pass an appropriate order within eight weeks from the date of receipt of the representation.

The application stands disposed of with the aforesaid directions.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

