

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7286 of 2021

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Dr. Nand Kishore Prasad Son of Late Ayodhya Lal Shaw Resident of
Awadhपुरी Near Reshmi Nikentan School, Railway Colony, P.S.- Digha,
District- Patna

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
3. The Director-in-Chief Health Services, Government of Bihar, Patna
4. The Joint Secretary, Department of Health, Government of Bihar, Patna
5. The Under Secretary, Health, Medical Education and Family Welfare, Health Department, Govt. of Bihar, Patna
6. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yashraj Bardhan
For the Respondent/s : Mr. Lalit Kishore (AG)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 09-02-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

State counsel accept notice for respondent Nos. 1 to 6. Copy of the petition shall be given to the State counsel.

In the instant petition, petitioner has prayed for following reliefs:-

“ (i) For issuance of appropriate writ or writs in the nature of mandamus commanding the respondents to fix full and final pension and to make payment of full gratuity of the petitioner, in accordance with law and for granting benefits of the promotion having been allowed to the post of DY. Director in the pay scale of Rs. 12,000-16,500 vide Notification No. 139, dated 20.02.2007, however, kept reserved on alleged ground of departmental proceedings, kept reserved on alleged ground of departmental proceedings etc. which were non-existent and



rather the petitioner's full and final pension as well as the promotion and financial benefits ensuing from this promotion, were withheld arbitrarily, callously and unreasonably,

(ii) For that an appropriate writ or writs in the nature of mandamus commanding the respondents to make payment of interest on the delayed payment of leave encashment benefits, full and final pension, gratuity, GPF etc. to the petitioner and the delayed payment of promotional benefits,

(iii) For that any other relief or reliefs as Your Lordship may graciously be pleased to allow in the facts of the case and in accordance with law. ”

In support of the aforesaid reliefs petitioner has submitted representation on 03.05.2011, 22.01.2018 and 07.01.2020 vide Annexures 7, 8 and 10 respectively. The concerned respondent is hereby directed to redress the grievance of the petitioner after examining the service particulars of the petitioner read with his representation and relevant provisions of law. Once he has been permitted to a particular post, he is entitled to pay attached to the post. The same shall be taken note with reference to Notification No. 139 and 140 dated 20.02.2007 and proceed to re-fix the pay of the petitioner and extend monetary benefits. Further concerned respondent is hereby directed to re-fix petitioner's pension and difference of pension gratuity and other retiral benefits. The above exercise shall be undertaken within a period of three months from the date of receipt of this order. Petitioner is also entitled to interest @ 8% per annum on arrears of monetary benefits in the light of Apex Court's decision in the case of *Vijay L. Mehrotra Vs. State of U.P. & Ors.* reported in (2001) 9 *Supreme Court Cases 687 (Para 2 to 4)*. Interest on arrears restricted to 3 years prior to filing of this petition till payment is made. If petitioner is not entitled to any service benefits/monetary benefits in that event necessary



speaking order shall be passed and communicated to the petitioner within the aforesaid time limit, failing which petitioner is entitled to litigation cost and it is quantified @ Rs. 15,000/-.

With the above observations, the present petition stands disposed of.

(P. B. Bajanthri, J)

kamlesh/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	18.02.2022
Transmission Date	NA

