

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1410 of 2023

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Santosh Kumar Sinha, aged about 62 years, gender- male, son of Late Sushil Kumar Raysen, Resident of Flat No. 303, 3rd Floor, Aroma Signature Apartment, Nirala Nagar Digha, P.S.- Digha, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Secretariat, Bihar, Patna.
2. The Principal Secretary, Department of Industries, Secretariat, Bihar, Patna.
3. The Deputy Secretary, Department of Industries, Secretariat, Bihar, Patna.
4. The General Manager, District Industries Centre, Sheikhpura.
5. The In Charge Officer, Finance Department (Personal Claim Resolution) Old Secretariat, Bihar Patna.
6. The Accountant General, Bir Chandra Patel Road, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Surya Kant Mishra, Advocate
		Mr. Gajendra Kumar Mishra, Advocate
For the Respondent/s	:	Mr.Zaki Haider, AC to SC-9

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-02-2023 On the request of learned counsel for the petitioner, this writ application has been listed under the heading “For Orders (On Petitions)” to consider I.A. No. 1 of 2023 whereby and whereunder the petitioner has sought an interim order of restraint against the respondents from implementing the impugned order as contained in memo No.141 (22) dated 10.01.2023 as contained in Annexure ‘1’ to the writ application. In course of hearing of the matter, however, it transpired that instead of hearing the matter on petition alone, this writ application may be considered as a whole. Accordingly, the



matter has been heard on the request of learned counsel for the petitioner and the State.

Learned counsel for the petitioner submits that the petitioner retired from the post of Project Manager, District Industries Centre, Sheikhpura. During this period, he was made In-charge General Manager. After his retirement on 31.08.2020, the petitioner submitted his pension papers and also applied for commutation of pension. The respondent Personnel pay and fixation cell vide its memo no. 1816(22) dated 11.12.2022 sent the service history of the petitioner to the respondent Accountant General, Bihar whereupon after issuance of no dues certificate by the competent authority, the respondent Deputy Secretary vide his memo no. 3263 dated 02.12.2020 issued sanction order for payment of pension, gratuity and commutation of pension to the respondent Accountant General, Bihar for issuance of authority slip. Copy of these memos have been brought on record as Annexures '3' and '4' to the writ application.

It is his submission that the petitioner received his post-retiral benefits including commutation of pension etc. but all of a sudden the impugned communication was sent to the petitioner saying that the pay of the petitioner had been wrongly



fixed while the petitioner was discharging his duty on a non-gazetted post. From the impugned order (Annexure '1') it appears that the Industries Department vide its letter no. 5822 dated 15.12.2022 has requested for correction of the pay scale, however, the petitioner is not aware of the said order.

Learned counsel for the petitioner submits that during pendency of this writ application, the respondents have taken consequential action and the office of the respondent Accountant General, Bihar revised the pension of the petitioner and reduce the monthly pension of the petitioner and this has been informed vide communication dated 24.01.2023 as contained in Annexure '5' to the interlocutory application.

Learned counsel for the petitioner has assailed the impugned action of the respondent authorities on the ground of violation of principles of natural justice. It is his submission that prior to issuing the impugned communications (Annexure '1' and Annexure '5') no opportunity of hearing was given to the petitioner. The petitioner was not made aware of the reasons for which the respondent authorities have revised the pension of the petitioner. It is submitted that in all fairness, equity and justice the petitioner should have been given an opportunity to submit his response if at all the respondents had been contemplating



reduction in the pay of the petitioner and re-fixation of the pension.

Learned counsel for the State has submitted that at this stage he has no instruction and if an opportunity is given he may file a counter affidavit but having noticed the kind of submissions advanced on behalf of the petitioner, this Court is of the considered opinion that instead of keeping this writ application pending and inviting the counter affidavit at this stage, since the grievance of the petitioner is that the impugned orders have been passed in violation of principles of natural justice, it would be just and proper if the writ application is disposed of with a direction to the Principal Secretary, Department of Industries, Government of Bihar (respondent no.2) and the Accountant General (respondent no.6) to look into the grievance of the petitioner, examine the same after giving him an opportunity of hearing and take an appropriate decision within a period of three months from the date of receipt/communication of a copy of this order. The petitioner shall submit a copy of the order with his representation in this regard within a period of four weeks from today.

Till final decision is taken in the matter after hearing the petitioner, the operation of the impugned orders as contained



in Annexures ‘1’ and ‘5’ shall be kept in abeyance and no recovery shall be made during this period.

This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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