

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7401 of 2015

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Md. Izharul Haque son of late Md. Javed Ali, resident of Azimabad Colony,
Mohammadpur, P.S.- Sultanganj, distt. Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director Secondary Education, Education Department Government of Bihar, Vikash Bhawan, New Secr
3. The Director, State Council for Education, Research and Training, Mahendru, Patna.
4. The Accountant General, Bihar, Veer Chand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Saroj Kumar, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC-8 Mr. Anil Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 24-01-2023 Heard Mr. Shivendra Kishore, learned Senior

Counsel appearing on behalf of the petitioner and Mr. Sheo

Shankar Prasad, learned SC-8 for the State.

2. In the present writ petition, the petitioner has

sought for following reliefs:-

- “i. For issuance of writ/writs, order/orders, direction/directions commanding the respondents to sanction and release final pension and gratuity after providing benefit of A.C.Ps along with consequential benefits of difference of salary including statutory and delayed interest.*
- ii. For a direction on the respondent*



for payment of leave encashment amount along with delayed interest.

iii. Any other relief or reliefs for which the petitioners are found entitled.”

3. Learned counsel appearing on behalf of the petitioner submitted that petitioner has retired from service on 31.08.2013 and a sum of Rs. 1,67,000/- was sanctioned and released towards group insurance amount, gratuity amounting to Rs. 5,04,895/- and 90% of the provisional pension has been sanctioned amounting to Rs. 8,069/- per month. The petitioner is aggrieved for non-payment of first ACP.

4. Learned counsel appearing on behalf of the respondent submitted that steps have been taken for payment of first ACP applicable in the case of the petitioner in accordance with the revised ACP scheme introduced in the year 2010.

5. At this stage, learned senior counsel appearing on behalf of the petitioner tendered his appearance and referring to Para-14 to the writ petition submitted that respondents have not yet sanctioned and released the entire leave encashment amount. Referring to Para-8 of the supplementary counter affidavit, he further submitted that a total amount of Rs.2,11,838/- has been recovered from the account of the petitioner out of Rs.3,27,180/- to be payable to the petitioner on account of leave encashment.

6. He further submitted that such action of the



Director, Primary Education is arbitrary and penal in nature. Learned counsel further submitted that without issuing notice to the petitioner and giving him proper opportunity of hearing, the order contained in Memo No. 1126 dated 01.09.2021 has been passed in arbitrary manner and is fit to be quashed by this Court.

7. In view of the submission made by the respondents, the respondent no. 2 The Director Secondary Education, Education Department, Government of Bihar, Patna is directed to calculate and make payment of all the retiral dues, particularly, with respect to the first ACP. The respondent no. 4- The Accounting General, Bihar, Patna is directed to issue authority slip with respect to the amount so calculated, such exercise must be done within a period of four weeks from today. The petitioner, if aggrieved, he may represent before the concerned authority for getting his grievance redressed.

8. The Director, Primary Education is further directed to issue notice to the petitioner and after giving proper opportunity of hearing, must pass a reasoned order with respect to the payment of leave encashment payable to the petitioner. In the meantime, all the retiral dues is expected to be paid within the aforesaid period as directed by this Court.

9. The order contained in Memo No. 1126 dated



01.09.2021 is hereby quashed.

10. With the above observations and directions, the
present writ petition stands disposed of.

(Purnendu Singh, J)

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