

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5420 of 2022**

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Sharat Kumar Son of Vishwanath Singh, Resident of Village - Arap Post - Arap, P.S. - Bikram, District - Patna, Bihar, retired Head Master Middle School Datiyana, Bikram, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Addl. Chief Secretary Department of Education, Government of Bihar, Patna.
3. The Director, (Primary), Education Department, Bihar, Patna.
4. The Director, Rajbhasha Bihar, Patna, Old Secretariat, Patna, Bihar.
5. The Deputy Director, Rajbhasha, Patna Division, Patna.
6. The District Education Officer, Patna.
7. The District Programme Officer (Eastb.), District - Patna.
8. The Accountant General, Bir Chand Patel Path, Patna.

... .. Respondent/s

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**Appearance :**

|                      |   |                               |
|----------------------|---|-------------------------------|
| For the Petitioner/s | : | Mr. Binod Kumar, Adv.         |
| For the Respondent/s | : | Mr. Kameshwar Kumar ( Gp 17 ) |
|                      | : | Mr. S.K. Ranjan, AC to G.P 17 |
| For the A.G.         | : | Mr. Dr. Anand Kumar, Adv.     |
|                      | : | Mr. Rajan Prakash, Adv.       |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL ORDER**

4      01-02-2023                      Learned counsel for the petitioner, counsel for the State and counsel for the Accountant General present.

The present application has been filed quashing letter dated 16.03.2022 contained in Memo No. 2511 issued in the signature of District Programme Officer,(Estab.) Patna by which the entire amount of gratuity of petitioner was withheld and amount of pension has also not been fixed on last pay scale upon which he has retired on 31.05.2021 as Head Master of

Government Middle School. The petitioner categorically submits that upon quashing of the said letter, the amount of gratuity be released and amount of pension should be revised on the basis of last pay scale i.e. Rs. 74,300/-. He also demanded the consequential difference amounts arising after proper fixation of pension, gratuity and leave encashment with admissible interest.

Counsel for the petitioner submits that petitioner after completing the age of superannuation retired on 31.05.2021 from the post of Head Master of Government Middle School, Datiyana, Bikram, Patna. The counsel for the petitioner submits that the District Programme Officer has sent a letter dated 26.10.2021 of Accountant General, informed petitioner for submitting evidence with regard to passing of Hindi Noting and Drafting examination of the petitioner. He has submitted the same before the authorities but even after submission of required certificate of the petitioner, the amount of pension and gratuity was not fixed upon the last pay scale upon which the petitioner retired rather PPO and GPO number dated 13.01.2022 was issued on the lesser pay scale. Counsel submits that DPO has issued letter by the Deputy Director, Rajbhasha Patna Division Patna for verification of passing certificate for the

petitioner and in Hindi Noting and Drafting examination. On the same date, the entire letter issued by DPO Patna by which the entire amount of gratuity was withheld and further NOC was issued for payment of pension upon lesser pay scale than last pay scale.

Counsel for the petitioner submits that petitioner is entitled for payment of pension on the basis of last pay scale drawn i.e. Rs.74,300/- but it was wrongly fixed on the pay scale Rs. 55,200/-. Apart from withholding the entire amount of gratuity. Counsel for the petitioner submits that he has represented before the District Programme Officer on 10.06.2021 explaining everything including about his wrong fixation but nothing was done then he moved to writ petition. In the counter-affidavit, the State has filed counter-affidavit on behalf of the respondent no. 6 and 7 in which it has been accepted that A.G. Bihar Patna vide letter dated 28.01.2022 directed the respondent no.7 to re-verify the instant petitioner of Hindi Noting and drafting examination and the Director Rajbhasha has confirmed the claim of the petitioner that his certificate is genuine and he has already passed Hindi Noting and Drafting examination in 2006 itself and he has made communication in this regard to the DAC in 2006 itself.

In this view of the matter, the DPO has issued a letter vide no. 2675 dated 29.09.2022 as well as to the Treasury Officer vide letter no.8829 dated 21.11.2022 for the purpose of payment of his gratuity. Counsel for the petitioner submits that the admitted amount of the gratuity has been paid but pension has neither been corrected nor the arrears as per the correct calculation has been made.

Counsel for the petitioner has filed rejoinder to the counter-affidavit in which he has categorically stated that petitioner has retired on 31.05.2021 after completing 33 years of service upon last pay scale of 74,300/-. For detail a table has also been annexed in Paragraph-4 of the rejoinder to the counter-affidavit. The said table is hereunder:-

| Last pay scale(31.05. 2021) | Total period of service (33 years) | Admissible Pension                   | Present pension amount | Difference of amount | From 01.06.2021                   |
|-----------------------------|------------------------------------|--------------------------------------|------------------------|----------------------|-----------------------------------|
| 74300                       | -                                  | 37150/-                              | 27600/-                | 9550/-               | From 01.06.2021 37150/- per month |
| 74300                       | -                                  | Gratuity 1569216/-                   | 1165824/-              | 4,03,392/-           | One Time                          |
| 74300                       | -                                  | Leave Encashment 300 days 9,51,040/- | 870,400/-              | 80640/-              | One Time                          |

In the above facts and circumstances, I am hereby directing to the respondent no. 6, 7 and 8 to assure the payment

of the petitioner for which the petitioner is entitled within 6 weeks from today. The petitioner shall file a fresh representation regarding the arrears if his payment shall not be made within the said period then petitioner shall be entitled for 9% interest on the admissible dues and the said 9% interest on the admissible dues shall be released from respondent no.6, 7 and 8 from their own pocket. The State is at liberty to release the same from the pockets of those officials.

With this direction, this writ application is disposed of.

**(Dr. Anshuman, J.)**

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