

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6496 of 2023

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Jai Nath Tiwari(male), aged about 63 years, Son of Late Basudeo Tiwari,
Resident of Village- Dudhni Dehri, P.S. - Tilauthu, District - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Water Resources Department, Sichai Bhawan, Patna.
2. The Chief Engineer, Water Resources Department, Dehri District - Rohtas.
3. The Superintending Engineer, Sone Canal Modernisation Circle, Dehri.
4. The Executive Engineer, Sone Barrage Division, Indrapuri, Dehri.
5. The Accountant General, Bihar Virchand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, GA-2
For the A.G., Bihar	:	Mr. Vivekanand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 14-09-2023

Heard Mr. Rajesh Kumar Sinha, learned counsel appearing on behalf of the petitioner; Mr. Vinay Kirti Singh, learned GA-2 appearing on behalf of the State and Mr. Vivekanand Kumar, learned counsel appearing on behalf of the Accountant General, Bihar.

2. Learned counsel appearing on behalf of the petitioner submits that petitioner is aggrieved for non-payment of retiral dues under different heads including Provident Fund which has not been granted to the petitioner, who had retired from the post of *Khalasi*, which is a Class-



IV post, on 31.05.2015 due to incorrect calculation as contained in Letter No. 18 dated 06.01.2023 (Annexure-6). Learned counsel further submits that the petitioner cannot be penalized for any incorrect calculation made on behalf of his Controlling Officer. The petitioner is a Class-IV employee and recovery after the period of more than 8 years of his retirement is not sustainable in the light of law laid down by the Apex Court in the case of *State of Punjab & Others Vs. Rafiq Masih (White Washer) and anr.* reported in *(2015) 4 SCC 334*. Learned counsel further submits that the case of the petitioner with respect to his entitlement for receiving pension is also covered by the decision of the Full Bench of this Court in the case of *Smt. Amrika Devi and Ors. Vs. The State of Bihar and Ors.* passed in *C.W.J.C No. 10063 of 2012* and in this regard the petitioner has relied specifically on Paragraph No. 46 of the said judgment.

3. *Per contra*, learned counsel appearing on behalf of the State submits that petitioner is not entitled for any pensionary benefit, more so, there is no question of making payment of pension as already mistake has been



committed while calculating the retiral dues of the petitioner and as such the petitioner was paid at an enhanced rate.

4. Considering the rival submissions, this Court is not satisfied by the objection raised by the State particularly, in Paragraph No.8 of the counter affidavit which is reproduced hereinafter:

“8. That vide Letter No. Pension 1347 dated 16.11.2022 the AG Bihar had requested the Executive Engineer, Sone Barrage division Indrapuri to verify the eligibility of the Petitioner for payment of pension in the light of Letter No. 10710 dated 18.10.2013 issued by the Finance Department Government of Bihar as in the light of Letter No. 10710 dated 18.10.2013 issued by the Finance Department Government of Bihar Patna as the total length of service for payment of pension is 9 years 11 month and 26 days whereas in the pension form it is mention as 26 years 7 days”

5. Accordingly, I find that the Letter No. 1347 dated 16.11.2022 and Letter No. 1379 dated 22.11.2022 are hereby held to be misconceived and not sustainable in the eye of law.

6. The concerned authority is directed to recall the Letter No.18 dated 06.01.2023 and make payment of all



the due post retiral benefits to the petitioner including pension.

7. The petitioner, if so desired, may also file detailed representation to facilitate payment of pension.

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

(Purnendu Singh, J)

nilmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.09.2023
Transmission Date	N/A

