

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11807 of 2021

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Umesh Kumar Son of Late Kameshwar Singh Resident of Vill-Ibrahimpur,
Nagwa Khas, P.S.-Naubatpur, Dist.-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Finance Department, Patna.
2. The Principal Secretary, Finance Department, Bihar, Patna.
3. The District Judge, Civil Court, Buxar.
4. The Registrar, Civil Court, Buxar.
5. The Accountant, Civil Court, Buxar.
6. Drawing and Disbursing Officer, Civil Court, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr. Anil Kumar Ambastha, (SC 26)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 02-01-2023 Heard learned counsel for the petitioner and learned
counsel for the Respondents.

Present Writ Petition has been filed for making
payment of outstanding amount of salary, which was not paid to
the petitioner under defence of salary amount with interest, as
well as the amount of Traveling Allowance.

Payment has already been completed in this case.

Learned counsel for the petitioner fairly submits that
all the payment as claimed by the petitioner has been received
by the petitioner accept the amount of Traveling Allowance. In
this regard Learned counsel for the petitioner has annexed

Annexure-P/5 according to which petitioner is entitled to get the Traveling Allowance after retirement.

Learned counsel for the petitioner submits that all the payments accept the Traveling Allowance has already been paid, so far as the amount of Traveling Allowance is concerned the said claim petition is not entitled for due to the reason that rule 122 Bihar Traveling Allowance Rule.

Learned counsel for the State submits that rule 122 of Bihar Traveling Allowance Rule shall prevail upon the circular annexed by the petitioner as Annexure-P/5 and said circular can not go beyond rule 122 Bihar Traveling Allowance Rule, which bars the Traveling Allowance to a retired employee.

It is well settled principles of law that in case of contradiction between rule and circular, the rule shall prevail. Here in the present case, rule debars the petitioner therefore the petitioner is not entitled for Traveling Allowance.

With this direction this Writ Petition is partly allowed and partly dismissed.

(Dr. Anshuman, J.)

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