

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13920 of 2017

=====

Anirudh Pandey Son of Late Akshaywar Pandey, Presently residing at Arujun Enclave, Flat No,- 509, New Purulia Road, Near Payal Cinema, Mango, P.O. and P.S.- Mango, Town - Jamshedpur, District- Singhbhum East Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Land Acquisition and Rehabilitation, Water Resources' Department, Govt. of Bihar, Pat
3. The Special Land Acquisition Officer, Gandak Project, Muzaffarpur.
4. The Special Land Acquisition Officer, Sone Project, Muzaffarpur.
5. The District Provident Fund Officer, Muzaffarpur.
6. The Treasury Officer, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Advocate.
For the Respondent/s : Mr. Vinay Kirti Singh-GA-2

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

14 24-02-2023 Heard learned counsel for the parties concerned.

The petitioner retired from the post of Clerk in July, 2014. He has filed this writ application for payment of leave encashment, GPF, medical reimbursement, amount towards the T.A. bill and CNC vouchers worth Rs.50,000/-. During pendency of this writ application, GPF amount has been paid, amount towards the medical reimbursement has also been paid and with regard to T.A bill and CNC voucher, the claim of the petitioner has been rejected.

Learned counsel for the petitioner submits that the



leave encashment has not been paid. He submits that the respondent/State be directed to pay the leave encashment of 300 days. It has also been submitted that 10 per cent pension has been withheld by the respondent pursuant to the order of punishment passed in a departmental proceeding. Non payment of leave encashment to the petitioner is completely arbitrary and is not supported by any rules/law in this regard.

Learned counsel for the State submits that criminal proceeding has been instituted against the petitioner after his retirement in the year 2016.

Learned counsel for the respondents referring to Annexure-G to the supplementary counter affidavit submits that the State Government has come out with the circular dated 6.7.1993 by which the discretion has been given to the Controlling Authority to stop the leave encashment, if the departmental proceeding and/or criminal proceeding is pending against the employee on the date of retirement.

I have heard learned counsel for the parties and have gone through the materials available on record. It is an admitted position that on the date of retirement of the



petitioner, no departmental proceeding and/or criminal proceeding was pending against him. The petitioner retired in July, 2014 and criminal case was lodged against him on 13.09.2016. Accordingly, in my opinion, the circular relied upon by the respondent is not applicable in the present case.

A co-ordinate Bench of this Court in the case of ***Dr. (Mrs.) Pratima Modi Vs. The State of Bihar and Others reported in 2020 (1) BLJ 302*** has held that the respondents are entitled to withhold leave encashment amount in cases where employee is facing the departmental proceeding and/or a criminal proceeding as on the date of retirement.

In view of the aforesaid discussion on facts as well as law, I hold that the petitioner is entitled to be paid leave encashment as per leave earned in the account of the petitioner.

Consequently,, respondent No. 2 is directed to pay the leave encashment to the petitioner on the basis of earned leave accrued in his favour during the course of service within a period of two months from the date of receipt/production of a copy of this order.



With aforesaid observation and direction, this writ
application is disposed of.

(Anil Kumar Sinha, J)

S.Ali/-

U			
---	--	--	--

