

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8748 of 2023

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Nand Kumar Jha, Son of Late Balakant Jha, R/o Village – Sumitra Villa Appt.
E2, Magistrate Colony, Khajpura P.S. - Rajiv Nagar, District – Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director (Secondary Education), Education Department, Govt. of Bihar, Patna.
3. Regional Deputy Director of Education, Patna Division, Patna.
4. The District Magistrate, Rohtas, Sasaram.
5. The District Education Officer, Rohtas, Sasaram.
6. The District Program Officer (Estt.), District Office, Rohtas, Sasaram.
7. The Accountant General, Bihar, Birchand Patel Path, Patna.
8. The District Provident Fund Officer, Rohtas, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brij Bihari Tiwary, Advocate
For the Respondent/s	:	Mr. Madanjeet Kumar, GP-20
	:	Mr. Mrigendra Kumar, AC to GP-20
For the A.G., Bihar	:	Mr. Binod Kumar Labh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

3 03-10-2023 Heard Mr. Brij Bihari Tiwary, learned counsel

 appearing on behalf of the petitioner, Mr. Binod Kumar Labh,

 learned counsel appearing on behalf of the Accountant General,

 Bihar and Mr. Madanjeet Kumar, learned GP-20 along with Mr.

 Mrigendra Kumar, learned AC to GP-20 appearing on behalf of

 the State.

 2. The present writ petition has been filed for the

 following reliefs:

“For issuance of an appropriate writ in the nature of “Mandamus” directing and commanding the Respondents authorities to pay the Gratuity, leave encashment, provident fund, Group Insurance and full pension along with interest 18% per annum as same has not been paid till date to the petitioner despite retired on 31.10.2022.”

3. Learned counsel appearing on behalf of the petitioner submits that the gratuity and leave encashment payable to the petitioner has been withheld in view of the Memo No.1665 dated 07.11.2022. Provisional pension of the petitioner has also not been fixed taking into account the last pay drawn by the petitioner. Learned counsel further submits that the departmental proceeding which has been initiated against the petitioner is vexatious in nature as during the service period of the petitioner, no show cause for dereliction in service for not attending the office as well as non-submission of AC/DC has been issued against the petitioner, who had retired from the post of Clerk, a Class-III employee from the office of District Education Officer, Rohtas on 21.10.2022.

4. He further submits that the District Education Officer is the authority, who is responsible for submission of AC/DC as was required and the petitioner, who was posted as clerk – Class III employee is not responsible for submission of the same. Petitioner had made available all the documents for submitting the statement with respect to AC/DC to the District Education Officer, Rohtas.

5. Considering the submission made on behalf of the petitioner as well as the counter affidavit filed on behalf of

respondent no.6, the Director, Secondary Education, Bihar is directed to take appropriate action with respect to the affairs of the Office of the District Education Officer, Rohtas. The jurisdiction and the responsibility regarding the submission of AC/DC is first required to be decided, as per the requirement of procedure being followed by the Government by casting the duty of the Officers. The petitioner, who is entitled for payment of pension and leave encashment, is required to be paid to him in accordance with law, in case he is not solely responsible for the allegation leveled against him.

6. The petitioner, if so advised, may file a detailed representation before the District Programme Officer (Establishment), Rohtas for disbursal of the retiral dues which has not yet been paid to the petitioner. The District Programme Officer (Establishment), Rohtas is directed to take steps to make payment of admissible dues to the petitioner within a period of four weeks from the date of filing of the representation in accordance with law.

7. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J.)

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