

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8777 of 2023**

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Ajay Kumar Srivastava, S/o Late Bindeshwary Prasad Srivastava, Ex-District & Sessions Judge Bihar Superior Judicial Services (retired as Principal Judge Family Court Begusarai) at present T2-058 Raheja Navodaya, Sector 92 Village Wazirpur Gurgaon 122505 Haryana.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Law Secretary, Government of Bihar, Patna.
3. Hon'ble High Court of Judicature Patna through Registrar General, Patna High Court, Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Binod Kumar Singh, Advocate |
| For the Respondent/s | : | Mr.Gyan Prakash Ojha (GA-7)    |
|                      |   | Mr. Satyabir Bharti, Advocate  |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 27-06-2023**

The writ petition is filed by a person who retired from the Bihar Superior Judicial Services in the year 2018. The petitioner prays for release of Newspaper Allowance and Fuel Allowance, the latter at the rate of 110 litre per month for the period intervening between the date of compulsory retirement i.e. 07.02.2014 and reinstatement in service on 31.05.2017; which reinstatement was on account of a judgment of the Hon'ble Supreme Court reported in **(2017) 5 SCC 138, High Court of Judicature at Patna v. Ajay Kumar Srivastava and**



**others.** The petitioner also claims Rs. 5 crores as compensation for depriving him of the opportunity of elevation and acquiring a dwelling house; which he claims to be an encroachment over his right to equality and right to life enshrined under Articles 14, 16 and 21 of the Constitution of India.

The petitioner joined the Bihar Superior Judicial Services on 06.05.1991 as Additional District & Sessions Judge, having been directly recruited from the Bar. He was given charge as a District & Sessions Judge in January, 2008, but then demoted as an Additional District & Sessions Judge by way of a punishment in departmental proceedings initiated in March, 2004. Later, he again stood posted as a District & Sessions Judge on 30.09.2011. Later, he was compulsorily retired on 07.02.2014 for having outlived his utility; in public interest. The High Court of Judicature at Patna quashed the order of compulsory retirement which was affirmed by the Hon'ble Supreme Court in the cited decision. The petitioner was reinstated in service on 28.03.2017 and he retired on superannuation on 30.06.2018. The petitioner before his retirement did not make the above claims for Fuel Allowance and Newspaper Allowance during the period in which he was kept out of service.



Fuel Allowance on any account is a reimbursement given for persons who have discharged their duties in the judicial service and there cannot be a reimbursement of fuel expenses and there cannot be any claim for the same when the duties have not been discharged; whatever be the reason. We do not think any claim for Newspaper Allowance can also be raised which is also a matter of reimbursement and the petitioner would have to establish the purchase of such newspapers.

We also notice that the writ petition filed is much after, in the year 2023, five years from retirement. As far as the claim for compensation, the petitioner cannot assume that if he had continued in employment, he would have been elevated to the High Court, since it does not depend upon seniority alone. We are also surprised that a claim has been made of denial of a dwelling house; which is not a consequence of elevation. The ownership of such dwelling house being not a consequence of elevation; a person who is elevated as a Judge of the High Court is either granted a Government accommodation or given the House Rent Allowance, which claim cannot be raised if no elevation occurs, and that too after the retirement of the officer from the Higher Judicial Service.

In fact, the Hon'ble Supreme Court while affirming



the judgment of the High Court setting aside the order of compulsory retirement also affirmed the liberty reserved to the High Court to initiate disciplinary proceedings on charges of misconduct. The fact remains that no such proceeding was initiated and the petitioner was retired.

The present writ petition is misconceived, ill-conceived and delayed and the same stands dismissed.

**(K. Vinod Chandran, CJ)**

**(Partha Sarthy, J)**

P.K.P./Anushka

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