IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10794 of 2023

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Suman Kumar Jha Son of Late Shiv Kumar Jha R/o Lalbag, Ramchowk, P.O.- Lalbag, P.S.-Nagar Thana, Darbhanga, District- Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Bihar at Patna.
2. The Secretary, Building Construction Department, Bihar at Patna.
3. The Secretary, General Administration Department, Bihar at Patna.
4. The Director, Provident Fund, Government of Bihar at Patna.
5. The Accountant General, Government of Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sourav Suman, Advocate
For the Respondent/s	:	Mr.Sushil Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 10-10-2023

Heard Mr. Sourav Suman, learned counsel appearing on behalf of the petitioner and Mr. Sushil Kumar, learned counsel for the State.

2. Petitioner faced a disciplinary proceeding and thereafter, a penalty order of compulsory retirement was passed, as contained in Memo No.6201 dated 26.10.2021.

3. The relief(s), as prayed for in the present writ petition, is as follows :-

> I. That the present writ application is being filed for issuance of an appropriate writ(s)/order(s)/direction(s) in the nature of *mandamus* or any other appropriate writ to the concerned respondent authorities for granting post retirement

benefits and all other dues payable to the petitioner with an interest @ 12 percent for the entire period.

II. That the present writ application is being filed for issuance of an appropriate writ(s)/order(s)/direction(s) for granting post retirement benefits including the amount in lieu of leave encashment and gratuity amount and other benefits with an interest @ 12 percent for the entire period.

III. That the present writ application is being filed for the issuance of an appropriate writ(s)/orders/direction(s) for the grant of 100 percent full monthly pension.

IV. And for issuance of any other relief or relief(s) for which the petitioner is entitled for."

4. The petitioner has been denied the pensionary benefit according to provisions of Section 46 (A) of Bihar Pension Rules, 1950.

5. The counter affidavit reveals that the petitioner has been paid Group Insurance to the tune of Rs.2,83,163/- and the GPF to the tune of Rs.7,81,714/-, as stated in paragraph no.12 of the counter affidavit, however, the provident fund amount has not been paid to the petitioner due to non-availability of contribution statement of six places of posting of the petitioner. The petitioner has also been given the benefit of second MACP w.e.f. 01.01.2009 but the third MACP has not been approved on account of pending departmental proceeding and subsequent award of punishment and a communication to that effect has been made through memo

no.7116 dated 29.09.2022. The aforesaid third MACP has been withheld as per the decision taken in terms of Rule 14(ix) of Bihar Government Servant (Classification, Control and Appeal) Regulations, 2005. In paragraph no.14 of the counter affidavit, it has been admitted that in terms of the said Rules, the petitioner is entitled for 2/3 of the pension/gratuity and leave encashment for 300 days. A further statement has been made that for regularizing the service of the petitioner from 16.9.2008 till 13.2.2017, opinion of the Finance Department was sought for and the service of the petitioner was regularized, vide letter no.7177 dated 04.09.2023. The pension and gratuity of the petitioner has been sanctioned vide letter no.7607 dated 19.09.2023 and the same has been communicated to the Accountant General (Bihar), vide letter no.7605 dated 19.9.2023.

6. Considering the aforesaid statements made in the counter affidavit, the Accountant General (Bihar) is directed to forthwith issue Pension Payment Order (P.P.O.) in favour of the petitioner and communicate the same to the Treasury Officer concerned within a period of two weeks from the date of communication of this order.

7. The Treasury Officer is also directed to forthwith send the advice for crediting the entire amount in the account of the petitioner without waiting for any objection from any quarter.

The petitioner, if so advised, may file a detail represent before the sanctioning authority for the relief(s), which has been denied by the competent authority.

8. With the above observation/direction, the present petition stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.10.2023
Transmission Date	