

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11792 of 2022

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Arun Kumar Singh Son of Late Ramsevak Singh Resident of Village and Post- Bithauli, Police Station- Bhagwanpur, District- Vaishali, Hazipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The District Magistrate, Vaishali, Hazipur.
4. The District Panchayati Raj Officer, Vaishali, Hazipur.
5. The Sub-Divisional Officer, Hazipur, Vaishali.
6. The Block Development Officer, Bidupur, District- Vaishali.
7. The Block Development Officer, Jandaha, District- Vaishali.
8. The Block Development Officer, Sahdai Bujurg, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Karna, Advocate
For the Respondent/s : Mr. Ajay, GA- 5

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 12-01-2023 Heard learned counsel for the petitioner and learned counsel for the State.

The present writ application has been filed to grant the post retiral benefits of the petitioner including GPF, Gratuity, Leave Encashment, Group Insurance alongwith statutory interest as well as the payment of arrears of subsistence allowances alongwith statutory interest to him.

Counsel for the petitioner submits that he was superannuated from the post of Panchayat Secretary. His post

retiral dues are pending and has not been paid till filing of the writ petition. He admits that there is a departmental proceeding against him and upon his retirement, a criminal case has also been instituted by the officials. He also submits that the departmental proceedings has not been concluded till date and it is at the stage of filing second show cause, which he has already filed.

Counsel for the State submits that the petitioner was Panchayat Secretary and the register of the office showing advance of Rs.14,47,300/- against the present petitioner. Petitioner is subject to criminal and judicial proceedings both, even though the State has paid him Rs.4,84,598.89/- against NPS and Rs.2625/- against GIC, which has been received by the petitioner. Counsel for the State further submits that admittedly recent amendment has come on 21st January, 2019 in the matter of Bihar Pension Rule where a new Clause 43 (d) has been added according to which if any departmental or judicial proceedings is pending against the government servant at the time of retirement, full amount of gratuity may be withheld till the final conclusion of the departmental proceedings or judicial proceeding and the issuance of order accordingly.

Here in the present case admittedly the petitioner was retirement on 28.02.2021 i.e. after enactment of the said Bihar Pension Amendment Rule, 2019. Counsel for State submits that the payable amount has already calculated which is Annexure-I of the supplementary counter affidavit and it has been categorically mentioned that if in the departmental proceeding the petitioner found guilty then adjustment of the amount has to be made. State assures that within 3 months the departmental proceedings shall be concluded.

In this view of the matter, this writ petition is disposed off with direction to the State that conclude the departmental proceedings pending against the petitioner within 3 months and liberty is hereby granted to the petitioner that he may file representation before the B.D.O. Sahdai Bujurg, Vaishali with regard to his arrears of retiral dues after conclusion of trial and it shall decided within one month thereafter, and the payment of admissible dues shall be paid to him in 4 weeks thereafter.

(Dr. Anshuman, J.)

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