

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9311 of 2017

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Yodhan Choudhary S/o Late Beyadar Choudhary resident of village + P.O. -
Dhelwa, P.S. - Ramkrishna Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department,
Bihar, Patna
2. The Joint Director, Planning and Development Department, Bihar, Patna.
3. The Chief Engineer, Local Area Engineering Organization, Bailey Road,
Patna.
4. The Superintending Engineer, Local Area Engineering Organization, Work
Circle, Munger.
5. The Executive Engineer, Building Construction Department, Building
Division, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Singh, Advocate
For the Respondent/s	:	Ms. Archana Meenakshee, GP-6
		Mr. Karandeep Kumar, AC to GP-6

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 05-04-2023

Heard Mr. Ashok Kumar Singh, learned
Counsel appearing on behalf of the petitioner and Ms.
Archana Meenakshee, learned GP-6 assisted by Mr.
Karandeep Kumar, learned AC to GP-6 appearing on
behalf of State.

2. Petitioner, who had retired from post of
Superintending Engineer has come before this Court,



aggrieved by action of the State Government for non-payment of full pension, arrears of pension, gratuity and leave encasement. Petitioner had superannuated on 31.01.2016 from RWD, Patna, Bihar.

3. This Court on 16.03.2023 was apprised by the learned Counsel appearing on behalf of the petitioner that petitioner assumed the charge of Superintending Engineer at Munger, however, his predecessor has not given any charge. The submission is being not substantiated by any pleading. It was also urged on behalf of the petitioner that petitioner had opened a separate register for maintaining accounts and cash book and in the said register he had counter signed. However, the accounts clerk namely, Manoj Kumar, who is present in the Court today has deliberately misplaced/destroyed the said register. This Court made a query from the petitioner, who is present in Court as to whether, he has taken any legal action against the clerk, who was working under his subordination to which he has replied that no such legal action has been taken nor any disciplinary proceeding or



petitioner had/has informed his controlling authority.

4. Mr. Manoj Kumar, the then clerk, who has also retired from the service, has produced a register to show this Court that the petitioner has deliberately not signed at the relevant place where he was required to sign in the cash register. The situation which has emerged before this Court is that as to whether according to submission made on behalf of the respondent particularly, Mr. Manoj Kumar against whom on the other hand, the petitioner has made serious allegation that he has deliberately misplaced/not produced the register maintained on which he had signed in spite of the direction of this Court, to help his predecessor who had not handed over the charge that compelled the petitioner to open a separate cash ledger register to avoid any misappropriation/defalcation committed by his erstwhile officer, who was holding the post before him. Allegation has also been made against Manoj Kumar that he was in constant touch with the erstwhile officer and as such illegal act has been committed by him.



5. The Superintending Engineer, L.A.E.O. Work Circle, Munger vide letter No. 231 dated 31.08.2017 allegedly after two years wrote a letter to Under Secretary, Rural Works Department, Patna, Bihar that accounts ledger books is missing which contains statement regarding bills of Rs. 24,10,837/- for the period during which the petitioner was posted. The specific allegation as stated in Paragraph No.5 of the rejoinder filed on behalf of the petitioner is reproduced hereinafter:

“That it is very unfortunate to state her that after filing of the instant writ petition finding no way the S.E., L.A.E.O., Work Circle, Munger vide letter no.231 dated 31.08.2017 after about two years written a letter to the Under Secretary Rural Works Department, Bihar, Patna that the Account Ledger Book is missing which is bill of Rupees 24,10,837 of the petitioner posting period.”

6. This Court finds that the communication contained in letter No. 231 dated 31.08.2017 has not been brought on record of the present writ petition to substantiate the allegation.

7. The present Superintending Engineer, who had joined on 08.03.2022, is ready with the accounts ledger book, which allegedly was not available with



Superintending Engineer at the relevant point of time in the year 2017, who had joined the Office after assuming charge from the petitioner.

8. As has been observed by this Court, the petitioner was directed to produce letter No. 231 dated 31.08.2017, which relates to withholding of non-payment of 10% payment of pension, gratuity and earned leave of the petitioner. The accounts ledger book, which was found to be missing in the year 2017 as stated in Paragraph No.5 of the rejoinder filed by the petitioner has been produced in the Court.

9. The present Superintending Engineer, who is present in the Court informs that the only requirement as on date for releasing the remaining 10% on account of pension, gratuity and leave encasement is for the reason that the petitioner has declined/refused to counter sign the account ledger book register the date from the petitioner had assumed charge till 31.01.2016 on which date he had retired.

10. This Court finds no reason as to why the



petitioner is adamant not to counter sign the register when the petitioner while he was in service has not taken any action against any of the staff including Mr. Manoj Kumar. In case he had discovered gross irregularity he was required to take action and lodge F.I.R. or should have informed his Controlling Officer. No action has been taken by him even at belated stage.

11. The fact which has emerged only leads to the conclusion that it is a deliberate inaction of the petitioner while he was in service for not taking any action for the alleged illegality committed by his subordinate or his predecessor. Secondly, the petitioner is adamant not to counter sign the register even in the Court which has physically been produced before this Court by the present Superintending Engineer.

12. Be that as it may be, this Court finds no merit in the writ petition as the technical glitch which has been pointed out by the State in releasing full pension, gratuity as well as leave encashment is solely on account of inaction of the petitioner and his deliberate desire not



to counter sign the account registered form the date he assumed charge till his date of superannuation.

13. This Court finds no merit in writ petition, accordingly, the present writ petition is dismissed.

(Purnendu Singh, J)

Nilmani/Niraj-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.04.2023
Transmission Date	N/A

