

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18870 of 2019

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Washiat Hussain, S/o Late Izhar Hussain, Resident of Village- Pipra, Police Station- Pipra, Post- Damodarpur, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director Primary Education, Patna.
3. The Regional Director Education Department, Patna.
4. The District Education officer, Patna.
5. The District Program Officer (Establishment Education), Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None.

For the Respondent/s : Mr. Rajesh Kumar Sinha, AC to GP-23.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 22-06-2023

Heard Mr. Rajesh Kumar Sinha, learned AC to GP-

23. No one appeared on behalf of the petitioner.

2. The petitioner has filed the present writ petition

for the following reliefs:

I. For issuance of writ/writs, order/orders, direction/directions in the nature of mandamus commanding upon the respondents authorities to make the payment of 90% provisional pension to the petitioner in the light of letter no.17. Partivedan 09.05.2018 shi 245 dated 14.05.2019 issued by the Additional Chief Secretary Education Department Bihar, Patna whose Para 1 says that as per provision 43 (GA) of Bihar Pension Rule. If any departmental proceeding or Judicial proceeding is going on against the retired employee in that case 90% provisional pension would be applicable.

II. For issuance of any other appropriate writ / writs, order/orders, direction / directions which your lordships may deem fit and proper in the feet and circumstances of the case.



3. Petitioner has filed a representation seeking setting aside the dismissal order dated 02.06.2017 on ground that the inquiry officer has not given opportunity to the petitioner to file his written statement nor the disciplinary authority has examined any Vigilance Officer in course of the inquiry. The Disciplinary authority has not considered the said vital fact which vitiates the disciplinary proceeding.

4. The District Programme Officer, Patna must ensure that the amount as sanctioned on account of G.P.F., G.I.C. and due salary must be credited into the bank account of the petitioner within one week, if already has not been credited into the account of the petitioner. The record further reveals that the petitioner has filed a detailed representation before the Principal Secretary, Human Resources Department, Patna on 13.07.2017 (Annexure-5) against the order of dismissal contained in Memo No. 565 dated 02.06.2017 (Annexure-4).

5. The record reveals that the amount of G.I.C. and G.P.F. as well as due salary has been sanctioned in favour of the petitioner. The said fact is stated in Para-7, 8 and 9 of the counter affidavit filed on behalf of the respondent no.5 – The District Programme Officer (Establishment), Patna.

6. This Court will not enter into deciding the



legality of the order passed by the disciplinary authority against the petitioner as contained in Annexure-4 to the writ petition.

7. Petitioner has already filed his application before the Principal Secretary, Human Resources Department on 13.07.2017. After change in the nomenclature of the said department, the Court directs the Additional Chief Secretary, Education Department, Bihar to dispose of the application filed on behalf of the petitioner as contained in Annexure-5 after examining all the records as well as inquiry report and the order of the disciplinary authority in accordance with law.

8. The Additional Chief Secretary must also refer to all the government circulars including the order contained in Memo No. 565 dated 02.06.2017 (Annexure-4) on which the petitioner has relied in support of his application by which he has challenged the dismissal order. The Additional Chief Secretary must give prior notice to the petitioner and after giving proper opportunity of hearing to the petitioner pass a reasoned order within a period of six weeks.

9. Learned counsel appearing on behalf of the State is directed to communicate this order forthwith so that the Additional Chief Secretary, Education Department, Bihar can adjudicate into the matter at an early date by passing a reasoned



order within the period prescribed by this Court.

10. The writ application, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	28.06.2023
Transmission Date	N.A.

