

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15148 of 2022

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Sanjay Sinha @ Sanjay Kumar Sinha Son of Late Surya Narayan Prasad
Resident of Mohalla-Chitragupt Nagar, Near Shiv Mandir, Pokharia, P.S.-
Begusarai, District- Begusarai at Present resident of Mohalla-Chitragupt
Nagar, District-Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of General Administration, Old Secretariat Bihar, Patna.
2. The Principal Secretary, Department of General Administration, Old Secretariat, Bihar, Patna.
3. The District Magistrate, Khagaria.
4. The Deputy Collector, District Establishment, Khagaria.
5. The Circle officer, Beldour Circle, Khagaria.
6. The Accountant General, Birchand Patel Marg, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vivek Kumar Singh, Advocate.
For the State	:	Ms. Babita Kumari, AC to SC-1.
For the A.G. Bihar	:	Mr. Chaitanya Swaroop, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-07-2023

Heard Mr. Vivek Kumar Singh, learned counsel

appearing on behalf of the petitioner; Ms. Babita Kumari,

learned AC to SC-1 for the State and Mr. Chaitanya Swaroop,

learned counsel for the Accountant General.

2. The writ petition has been filed for the following

reliefs:

(i) To issue an appropriate writ preferably in the nature of Mandamus commanding upon the Respondent authorities to revise the pension of the petitioner consequent upon grant of weightage of five (5) years in terms with Finance Department Memo No. PC-2-9-8/78/6190F dated 27.04.1979.

(ii) To issue an appropriate writ preferably in the nature of



Mandamus commanding upon Respondent authorities to pay to the petitioner enhanced pension with effect from 02.11.2017.

(iii) To issue an appropriate writ preferably in the nature of Mandamus commanding upon the Respondent authorities to produce the calculation chart showing revision / enhancement of monthly pension payable to the petitioner consequent upon grant of 5 years weightage to the petitioner.

(iv) To direct the Respondent authorities to pay to the petitioner amount of subsistence allowance for the period eleven months and to pay leave encashment of remaining 150 days.

3. Learned counsel appearing on behalf of the petitioner informs this Court that the Circle Officer who was posted in the year 2003 till 16.09.2004 has not been summoned by the District Magistrate / Collector for examination. Petitioner has made allegation against him that that the amount of leave encashment for 62 days have been disallowed only on the ground that the petitioner had not joined the Circle Office for the said period. In fact, the then Circle Officer has not allowed the petitioner to join the Circle Office, for which act Circle Officer is solely responsible and not the petitioner. Petitioner is further aggrieved for non-payment of subsistence allowance for eleven months for the period from 09.10.2003 to 16.09.2004. Petitioner has further been penalized for the same act twice by withholding the leave encashment as well as subsistence allowance for eleven months for which the petitioner is not responsible, as the the then Circle Officer has not taken his



joining.

4. Considering the aforesaid submission made by the petitioner, the District Magistrate, Khagaria is directed to summon the then Circle Officer who was posted during the relevant time and examine him along with all the records to arrive at a final decision as to whether the petitioner was restrained from joining by the then Circle Officer. In case on the basis of the record, if he arrives to conclude that the petitioner has deliberately not joined the Circle Office, in that case, the petitioner is required to be given proper opportunity of hearing to defend the allegation which he has made against the Circle Officer.

5. The writ petition is disposed of with a direction to the District Magistrate, Khagaria to dispose of the disciplinary proceeding initiated against the petitioner within a period of six weeks from today. Petitioner must cooperate in the disciplinary proceeding. Final order must be passed within the aforesaid period after examining the then Circle Officer. In case, it is found that the Circle Officer has deliberately restrained the petitioner from joining the service, appropriate legal action must be taken against the then Circle Officer either he is still in service or he has retired. The petitioner must make his



attendance before the District Magistrate, Khagaria on 13.07.2023 along with all the evidences in his favour to defend his case. The then Circle Officer must be noticed forthwith and he must also be present on 13.07.2023 at 10:30 A.M. before the District Magistrate, Khagaria. If required, the District Magistrate, Khagaria may further fix the date as per his convenience and pass a reasoned order within a period of six weeks. If the petitioner is found to be entitled, all the retiral dues admissible to the petitioner must be paid within further period of three weeks in accordance with law.

6. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.07.2023
Transmission Date	N.A.

