

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2515 of 2018

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Vivek Kumar son of late Sohan Lal Srivastava resident of Mohalla SH - 2/8-9,
Sharda Vihar Colony Navalpur, Basahi, P.S. - Basahi, Varanasi, District -
Varanasi U.P..

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Municipal Corporation, Gaya.
3. The City Commissioner, Gaya Municipal Corporation, Gaya.
4. The Executive Engineer, Water Board, Gaya Municipal Corporation, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the State	:	Mr. Rakesh Ambastha, AC to AAG- 7
For the respondent Nos		
2 to 4	:	Mr. Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 18-09-2023 Heard Mr. Sanjay Kumar, learned counsel for the

petitioner and Mr. Rabindra Kumar Priyadarshi who represent

the Gaya Municipal Corporation.

2. The present writ application has been filed on

behalf of the petitioner for issuance of a writ in the nature of
certiorari to quash the order containing memo no. 1463 dated
17.06.2017 issued under signature of Municipal Commissioner,
Gaya Municipal corporation whereby and whereunder the
Executive Engineer, Water Board Gaya has been instructed to
issues notices to the father of the petitioner Namely Sohan Lal
Srivastava, since dead for recovery of Rs. 4,22,805/- and further



the petitioner prays for issuance of consequential writ in the nature of mandamus commanding and directing the respondent-authorities to pay all the post retiral dues with admissible and penal interest, which has been withheld arbitrarily on alleged ground *inter alia* of non submission of the vouchers and/or for issuance of appropriate writ/order/direction to which the petitioner may be found legally entitled to in the facts and circumstances of the present case as stated hereinafter.

3. On 12.03.2018, while granting time to the Gaya Municipal Corporation to file counter affidavit within a period of four weeks, the recovery pursuant to the order passed vide memo no. 1463 dated 17.06.2017 (Annexure-16) by the Municipal Commissioner, Gaya Municipal Corporation was stayed.

4. Today on call, no reply is on record.

5. It is the case of the petitioner, heir of SohanLal (deceased) that his father was posted as Junior Engineer with the Corporation and retired on 31.03.2010 to the satisfaction of the respondent-authorities.

6. Since the retiral benefit was not cleared, CWJC No. 6785 of 2011 was preferred which was disposed of on 19.04.2011 with a direction to the respondent to pay the



admitted dues within the specified period (Annexure-5 to the petition).

7. It is his further submission that instead of extension of retiral benefits, the order vide memo no. 31 dated 28.03.2012 of the respondent no. 2 was passed by which it was informed that Rs. 16,13,770/- is pending with him on account of certain scheme and as such, even after deduction of his retiral benefits, he is liable to pay Rs. 8,58,776 (Annexure-A to the petition).

8. Aggrieved, CWJC No. 15258 of 2012 was preferred which was disposed of on 19.06.2017 with a direction to the respondent to examine the claim and pass order in accordance with law. Thereafter, came the order in question vide memo no. 1463 dated 17.06.2017 (Annexure-16 to the petition).

9. It is the case of the petitioner that a bare perusal of the order would show that the same is cryptic in nature. Further from Rs.16,13,470/- it went up to 17,74,346/- by the respondent themselves clearly showing confusion within the office.

10. The further submission is that the respondents talk about 17 files as also the vouchers; none of them are part of the record and/or made available to the petitioner to know actually on what count, respondents have arrived to the said total of Rs.



17, 74,346/-

11. As stated above, no reply has been filed by the Gaya Municipal Corporation.

12. In the aforesaid circumstances, instead of keeping the writ petition pending, it would be appropriate that the matter is remitted back to the respondent no. 2, the Municipal Commissioner, Gaya Municipal Corporation, who on the representation preferred within eight weeks from today shall provide all the documents relating to the schemes/vouchers in support of the corporation's case about the due amount.

13. The petitioner will thereafter file the written statement before the respondent— authorities and only after considering the same, incorporating in his order, the fresh order shall be passed.

14. Needless to say, the cryptic order vide memo no. 1463 dated 17.06.2017 has to go and is accordingly quashed.

15. The writ petition stands disposed of.

(Rajiv Roy, J)

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