

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1301 of 2023

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Nagendra Choudhary, (male) aged about 68 years, S/o Late Rambriksh Choudhary, Resident of Village- Kishunnagar, P.S.- Muzaffarpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Inspector General of Registration, Prohibition Excise and Registration Department, Govt. of Bihar, Patna.
2. The Inspector General of Registration Prohibition Excise and Registration Department Govt. of Bihar, Patna.
3. The District Magistrate Muzaffarpur, District- Muzaffarpur.
4. The Additional District Registrar, Muzaffarpur.
5. The Accountant General Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the State	:	Mr. Rewti Kant Raman, AC to SC-11
For the A.G.	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 03-05-2023 Heard Mr. Shashi Bhushan Singh, learned counsel appearing on behalf of the petitioner, Mr. Rewti Kant Raman, learned AC to learned SC-11 appearing on behalf of the State and Mr. Arun Kumar Arun, learned counsel for the Accountant General, Bihar.

2. Hard copy of the counter affidavit filed on behalf of the respondent nos. 1 to 5 is kept on record.

3. Learned counsel appearing on behalf of the petitioner seeks parity on the ground that main accused namely, Kaushal Kumar Verma has been paid entire retiral dues vide



PPO No. 397987 of 2004 way back in the year 2004. The petitioner is being penalised merely for the reason that he was posted in the office where the main accused was posted.

4. Learned counsel appearing on behalf of the respondents submitted that a criminal case is pending against the petitioner and the petitioner is only entitled to payment of 90 percent pension. However, he submitted that so far as the petitioner has claimed parity on the basis of the fact that main accused Kaushal Kumar Verma, who was posted as peshkar has already been paid his entire retiral dues.

5. Having heard the rival submission of the parties and the fact that in paragraph no. 14 of the counter affidavit, respondents have made reply to statement made behalf of the petitioner in paragraph nos. 17 and 18 of the writ petition in which there is no specific denial to the fact that co-accused Kaushal Kumar Verma has not been paid his entire retiral dues whereas the petitioner has brought on record by making specific statement that entire retiral dues has been paid to co-accused Kaushal Kumar Verma vide PPO No. 397987 of 2004 and the petitioner is being denied the same benefit.

6. Considering the admitted position that the respondents have not denied the fact that co-accused Kaushal



Kumar Verma being the main accused has been paid entire retiral dues in spite of the fact that a criminal case is pending against him, which according to this Court, is arbitrary act and undue favour has been made by the concerned authority so far as co-accused Kaushal Kumar Verma is concerned. This Court is conscious of the fact that illegality cannot be perpetuated. This Court in *CWJC No. 6852 of 2021 (Lilawati Mishra vs. the State of Bihar and Ors.)* vide order dated *11.05.2022* have taken into consideration the issues regarding disbursement of retiral benefits. The apposite paragraph in this regard is reproduced hereinafter:

“Hon'ble, the Supreme Court has, as discussed above, held in several judgments that salary and equally post retiral benefits, which have been duly earned, are rights vesting in such employee. Denial of wages and post retiral benefits in the instant case is a classical case of infringement of Article 21, owing almost entirely to the indifferent attitude of the State towards its employees and former employees. In M/s Shantistar Builders (supra), the three primary actions of human existence have been listed, and in D. K. Yadav (supra), livelihood is recognized as a facet of Article 21.

The State, in its myriad of functions, is not only an employer but is also a lawmaker. The lawmaker has stipulated various methods to regulate employment, balancing the interest of both the employer and the employee, conceiving redressal mechanisms to ensure timely resolution of disputes, and evolving ways to protect the vulnerable party in a particular transaction. In the instant case and many other



such cases, the State itself has laid waste to its own rules and regulations- calling into question the very basis of such laws and regulations.”

7. Considering the admitted fact, the Additional Chief Secretary, Prohibition, Excise and Registration Department, Government of Bihar is directed to take appropriate action against the concerned authority, who has made payment of entire retiral dues to the co-accused namely, Kaushal Kumar Verma in spite of the fact that a criminal case is still pending against him, this Court directs the concerned respondent to make payment of all the retiral dues to the petitioner in light of Full Bench Judgment of this Court passed in ***CWJC No. 15328 of 2016 (Arvind Kumar Singh vs. the State of Bihar & Ors.)*** dated ***02.05.2018*** within a period of six weeks.

8. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

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