IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24499 of 2019

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Abhimanyu Singh Son of late Ramjanam Singh, Resident of 402, Anand Pramila Kunj, Nehru Nagar, P.S. Patliputra Colony, Patna- 800023

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Commercial Taxes, Government of Bihar, Patna.
3. The Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar,Patna.
4. The Accountant General, Bihar,Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Hemant Kumar, Advocate
For the Respondent/s	:	Mr.Sanjay Kumar, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 28-04-2023

Heard Mr. Hemant Kumar, learned counsel appearing on behalf of the petitioner and Mr. Sanjay Kumar, learned AC to GP 7 appearing on behalf of the respondents.

2. Learned counsel appearing on behalf of the petitioner submits that the amended provision of Rule 43 (d) of the Bihar Pension Rules was a subject matter of challenge before the Hon'ble Full Bench of this Court in the case reported in **2018 (2) PLJR 933**. The petitioner seeks permission to file a detailed representation for disposal of his grievance before the Additional Chief Secretary, State Taxation Department.

3. Considering the limited relief as sought for by the petitioner, the Additional Chief Secretary, State Taxation Department is required to examine the case of the petitioner at his own level.

4. This Court finds that the record reveals that the petitioner has retired on 31.07.2018 and in view of the judgment of the Hon'ble Full Bench of this Court, at least 90 % of the gratuity and pensions are required to be paid to the petitioner.

5. It is admitted fact that the pension of the petitioner is still being paid every month and withholding of the gratuity is not accordance with law laid down by the Hon'ble Full Bench of this Court.

6. The explanation given by the respondent no.5 in the counter affidavit is not sustainable as the amendment which has been brought in Rule 43 (d) is after the judgment passed by this Court and the relevant date on which the petitioner has retired is 31.07.2018.

7. The Bihar Pension Rule is a beneficial legislation and any benefit which has been granted to the petitioner can not be taken away by such illegal notification to override the judgment of the Hon'ble Full Bench of this Court.

8. The Additional Chief Secretary, State Taxation Department must ensure that the gratuity payable to the petitioner as claimed by him must be paid within a period of three weeks.

9. Accordingly, the present writ petition is allowed.

(Purnendu Singh, J)

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AFR/NAFR	
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