

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4906 of 2021

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Nand Kumar Yadav S/o- Late Ram Swaroop Yadav R/o Vill- Pothia, P.S.-
Falka, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education, Purnea Division, Purnea.
4. The District Education Officer, Katihar.
5. The District Programme Officer (Establishment) Katihar.
6. The Accountant General, Government of Bihar, Patna.
7. The Principal, Baldeo Prasad Sukdeo Prasad High School, Manihari, Katihar.
8. Sri Kaushal Kishore Singh, Head Clerk, Baldeo Prasad Sukdeo Prasad High School, Manihari, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bal Krishna Mishra, Advocate
For the Respondent/s : Mr. Vinay Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 20-08-2024

Heard the parties.

2. The petitioner superannuated as Physical Teacher from Baldeo Prasad Sukdeo Prasad High School, Manihari, Katihar on 31.08.2018 has preferred the present writ petition seeking a direction upon the respondents to issue no dues certificate in favour of the petitioner in order to ensure payment of all the retiral benefits, including the pension, gratuity, earned leave as also the due salary for the month of July and August,



2018.

3. Learned Advocate for the petitioner contended that despite the superannuation of the petitioner way back in the year 2018, he has not been accorded his legitimate retiral benefits and salary on the baseless ground of non submission of charges. Nonetheless, pursuant to the letter no. 167 dated 15.09.2017, the petitioner has given all the charges to one Sumant Upadhyay on 14.12.2017 itself. Thereafter, nothing was due to the petitioner. However, on account of the baseless allegation of not handing over the charge, the petitioner has not been paid gratuity, till date. It is fairly contended that the other dues in relation to GPF, GIC and leave encashment have been paid to the petitioner.

4. Learned Advocate for the petitioner further urged that the pension and gratuity is not a bounty, which is to be distributed to the petitioner at the pleasure of the employer rather it is a self earned property guaranteed under Article 300 (A) of the Constitution of India and, as such, withholding of the same without there being any departmental proceeding or following the process of law is wholly without jurisdiction, apart from illegal and unjustified.

5. A counter affidavit has been filed on behalf of the respondent no. 5. It is contended that the District Programme



Officer (Establishment), Katihar has sent letter to the petitioner along with the letter to the Headmaster of the school concerned to who have their reply/clarification on the issue of non submission of charge. Thus, after resolving the issue of submission of charge, the gratuity shall be paid to the petitioner.

6. Considering the nature of the grievance and taking note of the fact that the matter is pending since 2021, this Court deems it proper to dispose of the writ petition with a direction to the District Programme Officer (Establishment), Katihar to resolve the dispute of handing over the charge, preferably within a period of six weeks, from the date of receipt/production of a copy of this order and ensure payment of gratuity as well as salary for the two months, as prayed for in paragraph no. 1 of the writ petition.

7. The respondent nos. 5 shall also consider the issue of delay in ensuring the admissible retiral dues of the petitioner, as to whether there is a latches on the part of the respondent nos. 7 and 8 or on the part of the petitioner. In case no latches of the petitioner is found, he shall be entitled to statutory interest over the due amount of gratuity, followed by a speaking and reasoned order. The entire exercise till the payment of gratuity and the salary for the month of July and August, 2018 must be



completed within a period of twelve weeks, from the date of receipt/production of a copy of this order.

8. The writ petition stands disposed off, with the aforesaid direction.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2024.
Transmission Date	NA

