

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2552 of 2022

Vinay Mohan, S/o Late Hareshwari Prasad, R/o Flat No. 103, Shiv Ganga Vihar, Ambedkar Path, Patna 800014.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Joint Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Accountant General, A and E, Bihar, Mahalekhakar Bhawan, Birchand Patel path, Patna - 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Roona, Advocate
For the State	:	Mr. Binod Kumar Sinha, AC to GP 7
For the A.G. Bihar	:	Mr. Binod Kumar Labh, SC

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 23-07-2024 The petitioner was appointed as an Assistant Engineer, in the year 1979 under the Irrigation Department. Subsequently, the Irrigation Department was renamed as Water Resources Department. While working at the Water Resources Department, he retired from service on superannuation in the year 2008, with effect from 01st January 2008. After his retirement, a Pension Payment Order (P.P.O.) was issued on 22nd May 2008. It is submitted on behalf of the petitioner that while he was in service, a departmental proceeding was initiated for embezzlement of the Government fund to the tune of Rs. 36,000/-. In the said departmental proceeding, an order of



dismissal was passed on 05th August 2008, i.e., after the retirement of the delinquent employee. The petitioner challenged the said order of dismissal before this Court in CWJC No. 17006 of 2008. The said writ petition was disposed of on 12th September 2013, quashing the order of dismissal, passed in departmental proceeding against the petitioner, and directing the authorities to release all consequential benefits. The Accountant General was also directed to ensure full pension and other benefits to the petitioner. The State of Bihar preferred an appeal against the said order. The Appellate Court disposed of the appeal by directing the appellants/ State authority to consider as the quantum of punishment proportionate to the charge. It was also directed that if the appellant authority failed to dispose of the departmental proceeding by reconsidering the order of punishment within three months from the date of this order, the order passed by the learned Single Judge in CWJC No. 17006 of 2008 shall be treated as a final order.

2. The department failed to pass any order within the stipulated period, as directed by the Appellate Court and accordingly, the order of punishment in the departmental proceeding was recalled *vide* order dated 12th November 2018 and it was directed that the petitioner would be entitled to get all



consequential benefits. Thereafter, the pension of the petitioner was started to be paid but the benefit of ACP and MACP was not granted to the petitioner. The petitioner preferred a representation before the Principal Secretary, Water Resources Department on 15th March 2019, and subsequently, by a Reminder on 24.01.2022. But, the said representations were not answered.

3. The State respondents have filed a counter-affidavit, stating, *inter alia*, that the Water Resources Department requested *vide* a letter no. 1579 dated 19th April 2022 to send the Vigilance Clearance Report of the petitioner for a certain period when the departmental proceeding was continuing. However, the said Report has not been received. As the Vigilance Clearance Report has not been received, the respondent no. 02 is not in a position to take any decision with regard to eligibility of granting ACP and MACP, in favor of the petitioner.

4. This is not accepted that a person working from 1979 to 2008 would not be granted financial benefits in the form of ACP and MACP due to departmental negligence and lethargy.

5. For the reasons stated above, the respondent no. 02 is specifically directed to dispose of the representation



(Annexure 4) within 60 days from the date of communication of this order. If, for the purpose of disposal of the said representation, the respondent no. 02 requires vigilance clearance, it is his duty to collect the same in order to decide as to whether the petitioner is entitled to get a revision of Pay under ACP and MACP and fix his salary on the basis of the revision of Pay and clear all his dues within the stipulated period of time.

6. Further, the petitioner is at liberty to communicate this order, obtaining a server copy of the same.

7. The instant writ petition is accordingly disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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