

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6177 of 2021

Basuki Nath Jha alias Wasuki Nath Jha, son of late Satyana Jha, resident of Panchayat Govindpur, Village Kanhaiya Chak, Post Kanhaiya Chak, Police Station Parbatta, District Khagaria, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Transport Department, Government of Bihar, Patna
2. Bihar State Road Transport Corporation, Parivahan Bhawan, Birchand Patel Path, Patna 800001
3. The Administrator, Bihar State Road Transport Corporation, Parivahan Bhawan, Birchand Patel Path, Patna 800001
4. The Chief of Administration, Bihar State Road Transport Corporation, Parivahan Bhawan, Birchand Patel Path, Patna 800001
5. The Divisional Manager, Bihar State Road Transport Corporation, Bhagalpur Division, Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Sinha 2, Advocate Mr. Uttam Kumar Mishra, Advocate
For the State	:	Mrs. Anuradha Singh, SC-21 Mr. Rakesh Prashad, AC to SC-21
For the BSRTC	:	Mr. P.K. Verma, Sr. Advocate Mr. Suman Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

14 23-09-2024 Heard learned Advocate for the petitioner and learned Advocate representing the Bihar State Road Transport Corporation, Bhagalpur. Learned Advocate for the State is also present.



2. The petitioner by invoking the prerogative writ jurisdiction of this Court seeking a direction upon the respondent to ensure payment of all the pensionary benefits including gratuity, leave encashment and contributory provident fund on the basis of last pay drawn by the petitioner on the post of Helper on 31.01.2020.

3. Adverting to the averments made in the writ petition, learned Advocate for the petitioner contended that the petitioner was duly appointed on the post of Helper on 07.05.1981 by the respondent Corporation. While the petitioner was working as Helper in Divisional Office, Bhagalpur, in the mean time, on account of an FIR instituted by his daughter-in-law under Section 498A, 323 read with Section 34 of the Indian Penal Code, the petitioner was subjected to a criminal proceeding and he was put to trial leading to conviction of the petitioner vide judgment dated 19.11.2018, passed in GR. No. 2110 of 2013. Taking note of the judgment of conviction, the petitioner was put to suspension vide Office Order No. 002, dated 03.01.2019. While the petitioner was on suspension, he superannuated on 31.01.2020.

4. On being aggrieved by the order of conviction, the petitioner has preferred Criminal Appeal No. 122 of 2018. The



afore-noted Criminal Appeal is pending consideration before the Court of learned Session Judge, Bhagalpur and till date the same has not been finally disposed off. It is further contended that on account of the conviction, a departmental proceeding has also been initiated against the petitioner after framing of charge vide memo no. 713, dated 13.02.2019. The petitioner has also responded to the memo of charge, but it has been kept pending till date, causing serious prejudice to the right and entitlement of the petitioner.

5. Learned Advocate for the Corporation submitted that considering the fact that the petitioner superannuated during the afore-noted departmental proceeding, the same has been converted under Rule 43(B) vide office order no. 30 dated 27.02.2020. Moreover as the departmental proceeding is going on against the petitioner owing to his conviction in a criminal case and the same has not been finally settled, any payment shall be made subject to the final outcome of the departmental proceeding based upon the order/judgment passed in the criminal appeal.

6. At this juncture, learned Advocate for the petitioner contended that admittedly the petitioner has been convicted in a case arising out of a matrimonial dispute and it has no relation



with the discharge of the service of the petitioner leading to initiation of a departmental proceeding. The criminal proceeding filed at the instance of the daughter-in-law of the petitioner under section 498A of the Indian Penal Code and other related provisions against the petitioner have nothing to do with the employment of the petitioner.

7. Suffice it to say that conviction of a person is a bar for claiming pension and so long as the conviction of the employee subsists, no indulgence and pensionary benefits can be granted. A satisfactory service and future good conduct is *sine qua non* in order to claim pensionary benefits. However, this does not preclude the employee to get his own contribution e.g. GPF and CPF etc.

8. Considering the aforesaid facts and the submissions as advanced on behalf of the learned Advocate for the respective parties, the writ petition stands disposed off, with a direction to the Administrator, Bihar State Road Transport Corporation to consider the claim of the petitioner with respect to the contributory provident fund and other admissible amount and if the same is found payable to ensure the payment thereof, suffice it to say that the remaining retiral benefit or other dues shall be subject to the final outcome of the departmental proceeding. The



aforesaid exercise must be completed within a period of eight weeks from today.

(Harish Kumar, J)

supratim/-

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