

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4761 of 2019

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Yugeshwar Prasad Singh, S/o Late Mangal Prasad, Resident of Mohalla-
Rajendra Nagar, Near Induwala Press, P.O., P.S., and Distt.- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary to the Government, P.H.E.D., Bihar, Patna, Bisheshwaraiya Bhavan, Bailey Road, Patna
2. The Engineer-in-Chief-cum-Special Secretary, P.H.E.D., Bihar, Patna, Bisheshwaraiya Bhavan, Bailey Road, Patna
3. The Accountant General, Bihar, Veerchand Patel Marg, Patna
4. The District Magistrate, Gaya, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Lalan Kumar Singh, Advocate
For the Respondent/s	: Mr. Vatsal Verma, AC to SC- 4
For the Accountant General	: Mr. Rajnandan Prasad, Advocate
	Mr. Vishesh Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-07-2024

Learned Advocate for the petitioner seeks permission to implead the District Magistrate, Gaya as respondent no.4 in the present writ petition, during the course of the day.

2. Permission is accorded.

3. Heard Mr. Lalan Kumar Singh, learned Advocate for the petitioner and Mr. Vatsal Verma, learned Advocate for the State, Mr. Rajnandan Prasad, learned Advocate for Accountant General, Bihar.

4. The petitioner, who superannuated on



31.10.2014 from the post of Junior Engineer, has invoked the jurisdiction of this Court seeking a direction upon the respondents to ensure payment of full pension and gratuity along with the amount under the head of General Provident Fund, Group Insurance and Leave Encasement.

5. At the outset, learned Advocate for the petitioner submitted that during the pendency of the writ petition, the entire amount of GPF has been paid. It is also contended that though the petitioner has been accorded the benefit of 1st and 2nd ACP, however, till date the monetary benefit has not been given. It is also the contention of the petitioner that for the charges, the petitioner remained absent between 01.05.2002 to 16.12.2003 and 27.07.2007 to 25.03.2008, the Department has gone to the extent of lodging an F.I.R. in the year 2023, vide S.K. Puri, P.S. Case No. 76 of 2023.

6. Adverting to the aforesaid fact, learned Advocate for the petitioner thus contended that admittedly the petitioner superannuated on 31.10.2014, and after nine years of his retirement, the F.I.R. has been instituted and moreover, there is no departmental proceeding ever initiated against the petitioner.

7. It is also the contention of the petitioner that



taking into account the period between 01.05.2002 to 16.12.2003 and 27.07.2007 to 25.03.2008, the petitioner has been accorded with the benefit of 1st and 2nd ACP, but surprisingly the Department has come with the counter affidavit stating therein that the Bihar State Water Board submitted a report that the petitioner was never posted there and by making forged signature of Secretary, Bihar State Water Board, the same has been made available to the Department with an oblique motive to treat the period, in question, as service period. The counter affidavit also averred that the period between 27.07.2007 to 25.03.2008, in which the petitioner was posted at the office of Chief Engineer, Bhagalpur zone is yet to verified, as the entry made in service book in this regard has not been issued and acknowledged by Zonal office.

8. A reply to the counter affidavit has also been filed on behalf of the petitioner bringing on record the notification dated 11.12.2003 as contended in Memo No. 7377. Referring thereto, it is further contended that in fact the earlier order of transfer and posting of the petitioner was cancelled and in place of Bihar State Water Board, he was transferred to Public Health, Patna Region, which letter has never been considered. So far the period between 27.07.2007 to 25.03.2008 is



concerned it is contended that in the aforesaid period the petitioner was neither assigned any work nor he was posted to any office/section and, as such, he always remained in the office of Chief engineer, Bhagalpur. Further, it is the Department, who is custodian of service book, thus any interpolation at the level of the petitioner is quite baseless and not sustainable.

9. On the other hand, learned Advocate for the State submitted that the very contention of the petitioner has been found false as per the reports submitted by the Bihar State Water Board as well as Chief Engineer, Bhagalpur Zone that at no point of time the petitioner was ever posted in Bihar State Water Board and worked in Bhagalpur Zone. In the aforesaid premise, the F.I.R. has instituted against the petitioner.

10. It is also contended that the petitioner has been accorded 90% of pension and gratuity vide Departmental Letter 25 dated 02.02.2015 and Letter 26 dated 02.02.2015 respectively. The petitioner is also facing a case under the Public Demand Recovery Act wherein an amount of Rs. 2,27,701/- is found recoverable from the petitioner.

11. In response to the aforenoted averment, learned Advocate for the petitioner submitted that the petitioner undertakes that he is ready to pay the recoverable amount and



for which he has also filed an application before the District Magistrate, Gaya, the copy of which is marked in Annexure-P/10 to the reply to the supplementary counter affidavit.

12. Regard being had to the submissions made on behalf of the learned Advocate for the respective parties and considering the fact that till date the petitioner has not been paid 10% of pension, gratuity as well as group insurance and leave encashment, only on account of the reason that the period between 03.05.2002 to 16.12.2003 and 27.07.2007 to 25.03.2008 have not been regularised.

13. Suffice it to say that the petitioner has superannuated way back on 31.10.2014 and no departmental proceeding had/has been initiated and now after more than a delay of nine years of the retirement F.I.R. has been instituted alleging interpolation and fraud.

14. There must be an end to a litigation; it is not in dispute the petitioner was a Junior Engineer, who has superannuated on 31.05.2014 and till date even after a decade his retiral benefit could not be settled on the ground of pending verification of certain period of service.

15. Let the District Magistrate, Gaya take a final decision with regard to the regularization of the period, in



question, on the basis of the averments made in the reply to the supplementary counter affidavit, especially in view of letter dated 11.12.2003 as contained in Memo No. 7377 marked as Annexure-P/8 to the reply to supplementary counter affidavit as well as Annexure 1 to the writ petition whereby the petitioner has been accorded the benefit of ACP taking into account the aforenoted period of service. The aforesaid exercise must be completed within a period of six weeks from the date of receipt/production of a copy of this order.

16. Needless to observe that in case the claim of the petitioner finds favour for the remaining retiral dues, including the group insurance, earned leave as well as the monetary benefit on account of 1st and 2nd ACP the same shall be paid after deduction of the amount found recoverable from the petitioner.

17. The writ petition stands disposed of.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26 .07.2024
Transmission Date	NA

