

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11823 of 2019

In
Miscellaneous Jurisdiction Case No.1008 of 2018

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Jay Krishna Bhindwar Son of Late Mintri Bhindwar Resident of Mohalla-
S.K. Vihar Colony Beur, Krishna Raj Kumari Sadan (Bangalpur) Post Office-
Beur, Police Station- Beur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Amrit Lal Mina, The Principal Secretary, Road Construction Department,
Government of Bihar, Patna.
3. Shri Mithilesh Kumar, Deputy Secretary, Road Construction Department,
Government of Bihar, Patna.
4. Shri Paramhans Chaudhary, Under Secretary, Road Construction
Department, Government of Bihar, Patna.
5. Shri Laxmi Narayan Das, The Engineer-in-Chief, Road Construction
Department, Bihar, Patna.
6. Shri Suresh Kumar, The Accountant General (G.E. IV P and B.-1) through
Accounts Officer, Bihar, Patna.
7. Shri Dilip Kumar, The Director General, Provident Fund, Pant Bhawan,
Patna.
8. Shri Rana Sujit Kumar, General Provident Fund Officer, Purnea.
9. Shri Krishna Chandra Thakur, The Chief Engineer, N.H. Wing, Bihar, Patna.
10. Shri Pradip Kumar, Superintendent Engineer, N.H. Circle, Purnea.
11. Shri Rajendra Kumar, Treasury Officer, Purnea.
12. Shri Rajnish Kumar, Deputy Secretary, (R.C.D.), Internal Vigilence.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhas Ranjan, Adv.
For the Respondent/s : Mr. Rajeev Shekhar, AC to GA 13

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 08-01-2024

Heard Mr. Prabhash Ranjan, learned counsel
appearing on behalf of the petitioner and Mr. Rajeev Shekhar,
learned counsel for the State.



2. The petitioner, who superannuated on 31.01.2014 from the post of Superintending Engineer, Technical Advisor, National Highway Circle, Purnea has filed the present writ petition seeking a direction upon the respondents to ensure the remaining 10% of pension as well as gratuity which has been withheld on account of pendency of a criminal case bearing Aurai P.S. Case No. 60 of 2006.

3. It is submitted on behalf of the petitioner that while the petitioner was posted as Executive Engineer, Rural Works Department, Muzaffarpur (East), on account of certain irregularity in the construction of Aurai Jail Road, certain complaint has been made resulting into institution of the Aurai P.S. Case No. 60 of 2006 for the offences punishable under Sections 420, 409, 467, 468, 20(B) and 34 of the Indian Penal Code. In the aforesaid case, apart from the petitioner, who was then holding the post of Executive Engineer, One Madan Kumar Singh, the then Assistant Engineer and Braj Mohan Mishra, Junior Engineer, have also been made accused.

4. It is further submitted that, in similar circumstances, when, the then Junior Engineer, Braj Mohan Mishra, was also allowed only 90% of pension and gratuity, he approached before this Court in CWJC No. 17810 of 2009 for grant of his



remaining unpaid post retiral benefits and other dues, which writ petition was disposed of vide order dated 19.03.2012 granting liberty to the petitioner to file representation before the respondent-Executive Engineer, Department of Rural Works annexing the copy of the order of the Hon'ble Court. Consequent thereupon, said Braj Mohan Mishra has been accorded the benefit of remaining unpaid retiral benefits/other dues.

5. He further submits that admittedly the criminal proceeding is pending since 2006 and till date the same has not yet been concluded and, as such, depriving the petitioner from his entitlement for an indefinite period is not only unjust but wholly illegal. Reliance has also been made on a judgment rendered by this Court in the case of *Vijay Kumar Chaurasia vs. State of Bihar* reported in **2015(1) PLJR 842**. The petitioner further relied upon the judgment rendered by this Court in the case of *Mohan Shah vs. State of Bihar* reported in **2022(4) PLJR 629**.

6. *Per contra*, Mr. Rajeev Shekhar, learned counsel for the State submits that admittedly the date on which the petitioner was superannuated he was facing a criminal case as noted hereinabove and as such in view of Rule 43(c) of the



Bihar Pension Rules, 1950, he was only entitled to 90% of pension as well as gratuity, which he has already been accorded.

7. Considering the fact that the case of the petitioner is based on parity to that of Braj Mohan Mishra, who was also made accused along with the petitioner and others in Aurai P.S. Case No. 60 of 2006, however, subsequently he has been accorded the remaining unpaid retiral benefits and other dues as also the fact that criminal proceeding is pending since 2006 till date, let the respondent No. 3 consider the claim of the petitioner for the remaining pension as well as gratuity, keeping in view that one of the identical person, facing similar criminal case has been allowed the benefit, and pass reasoned and speaking order, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

8. The present writ petition stands disposed of.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.01.2024
Transmission Date	

