

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8651 of 2023

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Lakshman Prasad Son of Late Bunna Prasad Resident of Mohalla 24C, Bank Colony, Padari Bazar, Gorakhpur, P.S. and District-Gorakhpur (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Govt. of Bihar, Patna.
2. The Secretary, Department Agriculture, Govt. of Bihar, Patna.
3. The Director, Department of Agriculture, Govt. of Bihar, Patna.
4. The District Magistrate, Nawada Bihar.
5. The District Agriculture Officer, Nawada Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vyas Kumar Mishra, Advocate
For the Respondent/s : Mr. Raghwanand, GA-11

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 07-10-2024

Heard the parties.

2. The petitioner by invoking the jurisdiction of this Court under Article 226 of the Constitution of India seeking a direction upon the respondents to ensure payment of all his post retiral benefits, including gratuity, earned leave benefits, accruing on account of 3rd MACP and as also the arrears of pension till date.

3. Learned Advocate for the petitioner contended that while the petitioner was posted as Project Director ATMA, East Champaran, Motihari, he was also in Additional Charge of the

Sub-Divisional Agriculture Officer, Sadar Motihari/Sikrahanacum-Assistant Director, Chemistry, Soil Testing Laboratory, Motihari. During the aforementioned period on 11.11.2016, he was trapped by the Vigilance Department on the allegation of receiving illegal gratification of Rs. 5,000/-, leading to institution of Vigilance Case No.120 of 2016, corresponding to Special Case No. 56 of 2016.

4. On account of the aforesaid fact, the petitioner was placed under suspension vide Notification No. 589 dated 30.11.2016. Later on, the petitioner was released from the judicial custody, thus suspension was revoked and his joining was accepted, but again he was suspended vide Departmental Notification No. 86 dated 09.02.2017. Subsequent thereto, after framing of the memo of charge, the petitioner was put to departmental proceeding vide Resolution No. 730 dated 05.06.2017 and finally the departmental proceeding came to be closed by the order of the Deputy Secretary, Agriculture Department vide Notification No. 505, dated 18.06.2020.

5. None of the charges have been found prove and the period of suspension was treated to be on duty with all benefits; the copy of the aforesaid order has been brought on record by way of Annexure-1 to the writ petition.

6. Since the criminal case was pending before the competent Court and the sanction for prosecution had already been accorded by the Law Department vide Order No. 16 dated 03.02.2017, but in the meantime, the petitioner superannuated on 30.06.2022, he was allowed only 90% of the provisional pension vide Memo No. 5859 dated 09.11.2022. So far the gratuity and earned leave are concerned, the petitioner was informed that the same has been withheld on account of pendency of the criminal case, wherein the Department has already accorded sanction to the prosecution.

7. Adverting to the aforesaid facts, the learned Advocate for the petitioner thus submitted that against the order taking cognizance dated 28.03.2017 passed in Vigilance Case No. 120 of 2016 in Special Case No. 56 of 2016, the petitioner has moved before this Court in Cr. Misc. No. 40988 of 2017. This Court vide order dated 09.05.2024 was pleased to set aside the order dated 28.03.2017 passed in Vigilance Case No. 120 of 2016 and all the consequential proceeding, qua the petitioner.

8. In view of the subsequent development, learned Advocate for the petitioner thus contended that the subject criminal case having been quashed, now there is no impediment in parting with the retiral benefits and other dues to the

petitioner.

9. Having considered the submissions advanced on behalf of the parties and considering the admitted position, as is evident from the order passed in the departmental proceeding as well as the order passed by this Court in Cr. Misc. No. 40988 of 2017, the copy of which is placed on record by filing a reply to the first and second counter affidavit, this Court feels it apt and proper to direct the respondent nos. 2 and 3 to consider the grievance of the petitioner with respect to gratuity, the admissible earned leave, 10% of remaining pension as well as the benefit of ACP/MACP, preferably within a period of eight weeks from today and pass necessary consequential order for payment thereof.

10. The writ petition stands disposed of with the aforesaid direction to the respondents.

(Harish Kumar, J.)

Jyoti Kumari/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2024
Transmission Date	NA