

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10168 of 2024

Indra Kant Choudhary @ Indra Kant Son of Late Lakshmi Narayan Choudhary Residing at 3A/88, Manju Niwas, Behind Church, New Area Gandhi Nagar, Hinoo, P. S.- Doranda, District- Ranchi, Jharkhand- 834002.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Finance Department, Bihar, Patna
2. The Divisional Commissioner, Purnea Division, Purnea.
3. The District Magistrate, Araria.
4. The Treasury Officer, Araria.
5. The Circle Officer, Narpatganj, Araria.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dilip Kumar Tiwary, Advocate
For the State	:	Mr. Kumar Alok (S.C-7)
For the AG (Bihar)	:	Mr.Arun Kumar Arun, Advocate
		Mr.Akash Arun, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 08-07-2024

Heard Mr. Dilip Kumar Tiwary, learned counsel appearing on behalf of the petitioner, Mr. Kumar Alok, learned SC 7 for the State and Mr. Arun Kumar Arun along with Mr. Akash Arun, learned counsels for the Accountant General (Bihar).

2. The petitioner in paragraph no. 1 of the present writ petition has sought *inter alia* following relief(s), which is reproduced hereinafter:-

(i) For issuance of an appropriate writ directing and commanding the respondents to grant/restore/release the annual increment of the petitioner which, by way of punishment, was/had been withheld by the respondents since July, 2013 without the cumulative effect.



(ii) For issuance of an appropriate writ directing and commanding the respondents to give the petitioner all consequential benefits including revision/re-fixation/re-calculation of the retirement benefits of the petitioner, after granting/releasing/restoring the due increment of the petitioner which, by way of punishment, was/had been withheld w.e.f. July, 2013 by the respondents.

(iii) For issuance of an appropriate writ directing and commanding the respondents to pay the petitioner area of difference of the retirement benefits of the petitioner after revising/re-fixing recalculating the retirement benefits of the petitioner after granting/restoring/releasing the due annual increment of the petitioner w.e.f. July, 2013.

(iv) For issuance of an appropriate writ directing and commanding the respondents to pay the petitioner interest for the arrear of difference of the retirement benefits after its revision/re-fixation/recalculation by granting the due increment to the petitioner w.e.f. July, 2013.

(v) For any other relief/reliefs of which the petitioner is legally entitled to.”

3. The facts in brief giving rise to the present writ petition are that the petitioner along with other employees of Board/Corporation, deputed by the State Government, was brought in the Treasury of Araria and subsequently got absorbed on the post of Treasury Clerk on 08.03.2006. The petitioner was subjected to departmental proceeding on the charge that the petitioner was not taking charge of Circle Nazarat and also for not complying with the order of the higher authority. While one departmental proceeding was pending, the petitioner was subjected to another departmental proceeding for other charges. The



petitioner was accordingly suffered two departmental inquiry on 29.08.2011 vide memo no.959 and dated 26.11.2011 vide memo no.1277.

4. The petitioner filed CWJC No.12754 of 2012 and this Court was pleased to dispose of the writ petition with direction that if the petitioner has not been terminated, the petitioner shall be paid month to month arrear of salary in accordance with law within a period of one month.

5. In the first departmental proceeding dated 29.08.2011, the petitioner was held guilty of the charge and a punishment order of withholding of one increment of the petitioner without cumulative effect was to be entered in the service book of the petitioner, vide memo no.898 dated 19.09.2012. Against the said penalty order, the petitioner filed an appeal on 22.04.2013 before the Divisional Commissioner, Purnea, which was numbered as Service Appeal No.19 of 2013 and at the same time, the petitioner had made representation before the District Magistrate, Araria in the light of order passed by this Court in CWJC No.12754 of 2012. The petitioner was not found guilty as per the inquiry dated 26.12.2012, however, the District Magistrate, Araria exonerated the petitioner from the charges, vide memo no.336 dated 04.04.2013. The petitioner under the above circumstances has



prayed for restoring his annual increment, which was withheld by the respondents.

6. Learned counsel for the petitioner submitted that the petitioner had retired on 31.07.2013. He had filed several representations and reminders before the District Magistrate, Araria and requested him to release the increment withheld and pay the retirement benefit accordingly.

7. Learned counsel further submitted that withholding of increment and the action of the authority and not releasing the same after the effective date of the punishment had adversely affected the amount of retiral benefit payable to him, which entitle him for calculation of ACP and MACP on the basis of pay scale and increment admissible to the petitioner and the pension and other pensionary benefits are required to be paid accordingly.

8. *Per contra*, Mr. Kumar Alok, learned SC 7 appearing on behalf of the State submits that the petitioner may approach with the Additional Chief Secretary, Finance Department, Government of Bihar for considering the relief(s) as prayed for in the present writ petition in light of the argument advanced on behalf of the petitioner, as well as, the status of the petitioner after he suffered the penalty of withholding of one increment which lasted till 12.09.2013, and thereafter, considering the benefit of



increment and pay-scale, as well as, the benefit of ACP and MACP is required to be calculated in accordance with law.

9. Heard the parties.

10. Taking into consideration the charges to be vague and indefinite, the District Magistrate, Araria vide order dated 19.09.2012 as contained in memo no.898, had imposed penalty of withholding of one increment of the petitioner without commutative effect and the same was required to be entered into the service book in respect of the departmental inquiry dated 29.08.2011; in respect of the inquiry dated 26.11.2011, as contained in Memo No.1277, the petitioner was not found guilty of charges and in this respect, the petitioner has made specific statement in paragraph no.19 of the writ petition, the District Magistrate, Araria exonerated the petitioner from the charges and communicated the same vide memo no.334 dated 04.04.2013, however, on the same date the District Magistrate directed the Sub-divisional Officer, Forbisganj to take steps for payment of the salary of the petitioner and also prepare charge-sheet in *Prapatra 'K'* against the Circle Officer, Narpatganj for harassing the petitioner. The only order, which as on date existing against the petitioner, is that of withholding of increment without cumulative effect from the date of penalty. The petitioner had retired from



service on 31.07.2013. The withholding of increment has adversely affected the amount of retiral benefits and non-consideration by the authority to release the annual increment of the petitioner and re-fixing the reitral benefit after releasing the same has prejudiced the petitioner.

11. In the above circumstances, I direct the authority concerned to re-fix the pay payable to the petitioner along with the benefit of ACP and MACP and calculate all the retiral benefits including the pension after releasing due increment of the petitioner with effect from the date he became entitled.

12. It is made clear that the claim of the petitioner for payment of retiral dues is continuing and the authority concerned must not take the plea of delay and laches and also the authority concerned must consider the fact that the petitioner has been continuously making his representation from the year 2013 before the appropriate authority.

13. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

chn/sudhanshu

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2024
Transmission Date	NA

