IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2627 of 2021

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Harish Chandra Yadav, Son of Late Tileshwar Yadav @ Tilkeswar Yadav Resident of Trimuhani Ghat, P.S.-Bahera, District- Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate Darbhanga.
3. The District Panchayat Raj Officer Darbhanga.
4. The District Provident Fund Officer Darbhanga.
5. The Block Development Officer Bahadurpur, District- Darbhanga.
6. The Accountant General Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar, Adv.
For the Respondent/s	:	Mr. Anwar Karim, AC to GP-10
For the AG	:	Mr. Ram Kinker Choubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 16-07-2024

Heard the parties.

2. The petitioner having continuously worked for eighteen years superannuated on 31.12.2016 from the post of Panchayat Sewak under the Office of Block Development Officer, Bahadurpur, Darbhanga. Despite his superannuation in the year 2016, when the petitioner has not been accorded his post retiral benefits, he moved this Court by filing the present writ petition seeking a direction upon the respondents to ensure

payment of all his post retiral benefits along with the statutory interest over the delayed payment. During the pendency of the writ petition, substantive amounts were paid to the petitioner under the head of Group Insurance, GPF, Gratuity and Pension.

3. From the records, especially Annexure-A to the counter affidavit filed on behalf of respondents no. 2, 3 and 5, it appears that under the head of Group Insurance, the petitioner has been paid an amount of Rs. 1,01,175/- (One lac one thousand one hundred seventy five); and against Provident Fund, the petitioner has been paid Rs. 1,21,665/-(One lack twenty one thousand six hundred sixty five). Under the head of leave encashment, the petitioner is found entitled to an amount of Rs.2,59,140/- (Two lac fifty nine thousand one hundred forty), simultaneously under the head of Provisional Gratuity, an amount of Rs.2,15,735/- (Two lac fifteen thousand seven hundred thirty five) is found payable, but surprisingly the amount under both the heads have been withheld.

4. The letter as contained in Annexure-A to the counter affidavit also reflects that the due arrears of salary for forty nine months came to Rs. 9,29,674/- (Nine lac twenty nine thousand six hundred seventy four). However, this amount has also been withheld. The materials available on record also

suggest that against the outstanding due advance taken by the petitioner in his service period, an amount of Rs.13,08,636/- (Thirteen lac eight thousand six hundred thirty six)found payable to the department. After making adjustment of the advanced amount against the retiral dues and arrears of salary, rest of the amount has been paid to the petitioner.

5. The petitioner being aggrieved by deduction of the advance amount from his retiral and other admissible dues by the respondent authorities has vehemently contended that the petitioner was superannuated in the year 2016 and when he approached before this Court in the year 2021, all sorts of adjustment have been made in a most arbitrary manner. At no point of time, the petitioner has either been served with a notice or opportunity of hearing was afforded to satisfy the respondent authorities as to whether the advance taken by the petitioner has been refunded or he has in receipt of the vouchers showing expenses against the advance amount.

6. The learned counsel for the petitioner drew the attention of the Court to the counter affidavit filed on behalf of the Accountant General, Bihar, especially Annexure-A thereof. Referring to the PPO details, it is contended that the petitioner superannuated on 31.12.2016 but the date of starting of the

pension has been shown to be on 01.04.2017 and, as such, the petitioner has not been paid his three months pension.

7. On the other hand, the learned counsel for the State urged before this Court that the record available with the Department reveals that on different dates the petitioner has taken an amount of Rs.31,70,000/- (Thirty one lac seventy thousand) in advance, out of which the petitioner has adjusted only Rs. 19,70,800/-(Nineteen lac seventy thousand eight hundred) and the remaining amount of Rs. 13,08,636/- (Thirteen lac eight thousand six hundred thirty six) was found recoverable from the petitioner and thus it has been rightly adjusted against retiral dues of the petitioner; and accordingly the Last Pay Certificate (LPC) was issued by the B.D.O. Singhwara.

8. Heard the learned counsels for the respective parties and perused the materials on record.

9. This Court finds that the grievance of the petitioner is now only confined to the extent that while making deduction of the advance amount, the petitioner has not been afforded any opportunity or served with a notice to submit the voucher of the expenses or the papers/documents showing disbursement of the advance amount. The counter affidavit does not specifically refute the contention of the petitioner that at any point of time,

the petitioner has ever been served with a notice or afforded any opportunity at the time of deduction.

10. It is trite law that any order causing adverse effect to any person/employee, at least he should be given an opportunity to place his explanation which is apparently lacking in the present case. No person shall be condemned unheard.

11. In the aforesaid factual position, this Court deems it proper to direct the District Magistrate, Darbhanga to look into the matter and after giving an opportunity to the petitioner by issuance of a show-cause notice; verify the recoverable amount from the record and/or on reply being filed by the petitioner, if the District Magistrate, Darbhanga shall find that the petitioner is in possession of any voucher(s) or document(s) showing disbursement of the advance amount, the same shall be verified with the record(s) available in the department and only thereupon a final order with regard to adjustment of the amount shall be passed.

12. It is expected that the aforesaid exercise must be completed within a period of twelve weeks from the date of receipt/production of a copy of this order.

13. So far the contention of the petitioner with regard to non-payment of three months pension as discussed

hereinabove, the same shall be verified by the Accountant General, Bihar, within the period stipulated.

14. Suffice it to say, if the petitioner is found entitled for any amount under the head of pension, the same must be accorded to him. In case of non-entitlement, a reasoned order is required to be passed.

15. With the aforesaid direction(s) and observation(s), the present writ petition stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19-07-2024
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