

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3184 of 2021

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Shashank Singh son of Late Mukund Lal, resident of 422 D/1, Kachchi Phulwaria Road, Bakshi Khurd, P.O. and P.S. Daraganj, District- Allahabad (U.P).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health and Engineering Department, Government of Bihar, Patna.
2. The Engineer-in-Chief-cum- Special Secretary, Public Health and Engineering Department, Government of Bihar, Patna.
3. The Chief Engineer, Public Health Engineering Department, Purnea.
4. The Superintending Engineer, Public Health Engineering Circle, Purnea.
5. The Executive Engineer, Public Health Division, Katihar.
6. The Executive Engineer, Public Health Division, Araria.
7. The District Provident Fund Officer, Katihar.
8. The Treasury Officer, Bihar, Patna.
9. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Singh, Advocate
For the Accountant General	:	Mr. Vivek Anand Kumar, Advocate
For the State	:	Mr. Alok Ranjan (AAG-5)

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

- 7 05-01-2024 Heard Mr. Pankaj Kumar Singh, learned counsel appearing on behalf of the petitioner and Mr. Alok Ranjan, learned counsel for the State as well as Mr. Vivek Anand Kumar, learned counsel for Accountant General.
2. The petitioner claiming himself to be son of the erstwhile employee namely, Late Mukund Lal, who died in the year 2013, has filed the present writ petition seeking a direction commanding upon the respondent authorities for payment of

death-cum-retirement benefit to the petitioner. The petitioner also sought a direction to ensure interest over the delayed payment as the father of the petitioner died in harness on 23.01. 2013 and when the payment has not been made, the petitioner has been compelled to approach before this Court by filing the present writ petition.

3. Three counter-affidavits have been filed including the counter-affidavit on behalf of respondent nos. 2 to 5.

4. It is submitted on behalf of the respondents that all the substantive amount under the different heads of retirement benefits have been paid to the petitioner. Further, in the light of an application filed by the petitioner before the Executive Engineer, Public Health Division, Katihar on 19.08.2021, giving his consent for recovery of Rs. 2,53,083/- (Two lakhs fifty three thousand and eighty three) from the retiral benefit of his father and requested to pay remaining amount of retiral benefit, the aforesaid amount has been adjusted from the amount of leave encashment of the father of the petitioner and the remaining amount of Rs. 1,79,807/- (One lakh seventy nine thousand eight hundred and seven) has been paid to the petitioner.

5. At this junction, it is submitted on behalf of the petitioner that the alleged adjustment/recovery was subject

matter of CWJC No. 11013 of 2012, wherein the Hon'ble Court, while disposing the writ petition has set aside the entry made in the service book dated 19.09.2011 with a liberty to the State, if so advised, they can proceed further, but after giving notice to the heirs and successors, who are the present petitioners and after hearing the parties, passed an order in accordance with law. The learned Court further observed that it is made clear that if the petitioners succeed in the proceeding, the amount which has been recovered will be returned, but if the petitioners fail to succeed, in such circumstances liberty will be given to the State to take action in accordance with law. Referring to the order of this Court passed in CWJC No. 11013 of 2012, he thus submits that till date neither any notice has been served nor the respondent has come up with a final decision.

6. Considering the submissions advanced on behalf of the parties and the materials available on record, this Court deems it proper to dispose of the writ petition with a direction to respondent no. 3 to consider the claim of the petitioner including the claim of ACP/MACP and take a final decision in the matter. Needless to observe that for better appreciation of the facts and the materials, the petitioner is also at liberty to file a fresh representation bringing on record the entire facts

preferably within a period of four weeks from today.

7. If such a representation is filed, the concerned respondent shall consider the same and pass a reasoned and speaking order, preferably within a further period of four weeks.

8. This disposes the writ petition.

(Harish Kumar, J)

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