IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13039 of 2023

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Bijay Shanker Singh Son of late Hanuman Singh, Permanent resident of village- Khairanti, P.O- Upadhya Pandeypur, P.S- Buxar, District- Buxar at present resident of Mohalla- Lahra Chowk Chakla, P.O and P.S-Kishanganj, District- Kishanganj.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Patna.
2. The Additional Chief Secretary, Planning and Development Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Department of Land Reforms, Government of Bihar, Patna.
4. The Additional Chief Secretary, Finance Department, Government of Bihar, Patna.
5. The Principal Secretary, Planning and Development Department, Government of Bihar, Patna.
6. The Principal Secretary, Department of Land Reforms, Government of Bihar, Patna.
7. The Principal Secretary, Finance Department, Government of Bihar, Patna.
8. The Director, Directorate of Economics and Statistics, Planning and Development Department, Government of Bihar, Patna.
9. The Joint Director (Administration), Planning and Development Department, Government of Bihar, Patna.
10. The District Magistrate, Bettiah District- West Champaran.
11. The District Statistics Officer, Bettiah District- West Champaran.
12. The Treasury Officer, Bettiah District- West Champaran.
13. The Accountant General, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Anis Akhtar, Advocate
For the Respondent/s	:	Mr. Rewati Kant Raman, Advocate
For the Accountant General	:	Mrs. Ritika Rani, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 27-08-2024

Heard the parties.

2. The petitioner superannuated on 31.07.2022 from

the post of Sub Statistical Officer, District Statistical Office, Bettiah, West Champaran has invoked the prerogative writ jurisdiction of this Court under Article 226 of the Constitution of India seeking a direction upon the respondents to ensure payment of all his retiral benefits, except earned leave for 300 days, GPF and Group Insurance. The grievance of the petitioner is further confined to payment of Dearness Allowance on earned leave for 300 days at the rate of 38 % as per Finance Department Letter No. 9730 dated 18.10.2022, which has wrongly been paid at the rate of 34 %.

3. Learned Advocate for the petitioner contended that after his unblemished superannuation on 31.07.2022, when the petitioner approached before the respondent authorities for payment of his retiral benefits and other dues, all on a sudden on account of non passing of Computer Competency Test Examination, the respondent authorities came out with an order as contained in Memo No. 738 dated 27.11.2023 issued by the District Statistics Officer, Bettiah, West Champaran whereby, the Accountant General, Bihar has informed that from July, 2012 till July, 2022 in early increment, a total of Rs. 15,02,521/- has been paid to the petitioner in excess to his entitlement and accordingly, in view thereof, amended pension papers and service book has been sent for necessary payment. The afore-

noted order was put to question in I.A. No. 01 of 2023, which came to be allowed vide order dated 21.12.2023.

4. With regard to the issue as to whether passing of the Computer Competency Test Examination is *sine qua non* for the annual increment is questioned before this Court in CWJC No. 13368 of 2023 and the same is pending adjudication before this Court. Learned Advocate for the petitioner fairly contended that obviously the amount, which has been directed to be deducted shall be subject to the outcome of the afore-noted writ petition, however, so far the other admissible amount is concerned, there is no impediment in making payment of the same. It is lastly contended that on account of non payment of the rest of the admissible pensionary benefits and other dues, the petitioner is facing serious prejudice apart from destitution and penury.

5. At this juncture, learned Advocate for the State contended that apart from the amount of Rs. 15,02,521/-, an amount of Rs. 3,16,020/- has also been received in excess by the petitioner under the head of unutilized earned leave and the same is also required to be recovered.

6. Having considered the submissions advanced on behalf of the learned Advocate for the respective parties and taking note of the fact that the issue with regard to entitlement

of annual increment based upon passing of the Computer Competency Test Examination is pending consideration before this Court in CWJC No. 13368 of 2023, this Court deems it apt and proper to dispose off the present writ petition with a direction to the respondent no. 8 to consider the grievance of the petitioner with regard to the rest of the admissible retiral benefits and other dues, excluding the amount which is at present found not payable to the petitioner, in view of non passing of the Computer Competency Test Examination, preferably within a period of eight weeks, from the date of receipt/production of a copy of this order. Withholding of any amount, which is not a subject matter of dispute is wholly unjustified and cannot be countenanced in law.

7. The writ petition stands disposed off, accordingly.

8. Needless to observe that the amount which is found to be recovered on account of non passing of the Computer Competency Test Examination shall be abide by the final outcome of the CWJC No. 13368 of 2023.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2024
Transmission Date	NA