

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.191 of 2024

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Md Najibullah Son of Late Md. Sadullah Resident of Mohalla Bahadur Ganj,
P.O. and P.s. Laheria Sarai, District-Darbhangha (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Education Department Patna.
2. The Principal Secreary, Education Department Govt. of Bihar, Vikash Bhavan, Patna.
3. TheDirector, Primary Education Department, Education Department, Govt. of Bihar, Vikash Bhavan Patna.
4. The Director Administration, Education Department, Govt. of Bihar, Vikash Bhavan Patna.
5. The District Education officer, Saharsa, District- Saharsa.
6. The District Treasury Officer, Saharsa, District- Saharsa.
7. The Chief Account Officer, Officer of the Accountant General (A/E) Bihar, Veer Chand Pael Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shankar Kumar, Advocate
For the Respondent/s	:	Mr. Ashit Kumar Jha, GP-2

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 29-07-2024

Heard Mr. Shankar Kumar, learned advocate for
the petitioner and Mr. Ashit Kumar Jha, learned advocate
representing the State-respondents.

2. The petitioner superannuated on 13.01.2023
from the post of District Education Officer, Saharsa. On being
superannuated, the petitioner approached to the Department for



grant of all his retiral benefits and other admissible dues. However, when the peititoner has not been accorded his full pensionary benefits, he approached before this Court by filing the present writ petition seeking a direction upon the respondents to ensure payment of entire amount of gratuity, leave encashment, 10% of remaining pension as well as current pension on the basis of new revised pay-scale with statutory interest.

3. A counter-affidavit has been filed on behalf of respondent No. 04. A categorical averment has been made that while the petitioner was posted as District Education Officer (Establishment), Madhubani on account of alleged defalcation of government fund, the petitioner along with Mohammad Akhtar Hussain have been put to departmental proceeding with the charge of preparing fake bills.

4. Taking into consideration the on going departmental proceeding the petitioner has been accorded 90% of provisional pension, however, the rest of the pensionary benefits including full gratuity, leave encashment, 10 per cent of pension and other admissible dues have been withheld under Rules 43(c) and 43(d) of the Bihar Pension Rules, 1950.

5. A supplementary affidavit has been filed on



behalf of the petitioner; order of the Director Administration-cum-Additional Secretary contained in Memo No. 1/121802 dated 23.03.2024 has been brought on record. The order clearly speaks that the petitioner has been exonerated from all the charges. Adverting to the aforesaid fact learned Advocate for the petitioner contended that the impediment which was on account of pending departmental proceeding, is now no more in existence; as the petitioner has already been exonerated from all the charges. However, despite the order being passed on 23.03.2024 as noted hereinabove, till date the petitioner have not been paid the remaining retiral benefits. The learned counsel would thus submit that the petitioner must be allowed all the remaining retiral benefits.

6. At this juncture, learned advocate for the state submits that in view of the supplementary affidavit filed on behalf of the petitioner he needs some time to get instruction from the department with regard to the further action in view of the order dated 23.03.2024.

7. Considering the submissions of the respective parties and taking note of the order dated 23.03.2024 which clearly speaks about the culmination of the departmental proceeding in exoneration of the petitioner from all the charges,



this Court deems fit and proper to dispose of the Writ Petition with a direction to the respondent No. 04 to ensure payment of all the remaining retiral benefits/dues of the petitioner, including the amount of full gratuity, earned leave as well as the 10 per cent of pension under the revised pay-scale preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

8. The writ petition stands allowed.

(Harish Kumar, J)

durgesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.07.2024
Transmission Date	NA

