

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7599 of 2024

=====

Kishori Prasad Rai, S/o Late Anandi Rai, Resident of Village- Keshopur, P.S.- Sakra., District- Muzafarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Deptt. of Education, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Department of Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The Director Administration, Department of Education, Govt of Bihar, Patna.
6. The District Education Officer, Sitamarhi.
7. The District Programme Officer (Establishment), Sitamarhi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shyam Sundar Kumar, Advocate
For the Respondent/s : Mr. Harun Quareshi, AC to SC-1

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 19-03-2025 Heard the parties.

2. Learned Advocate for the petitioner advertng to the facts narrated in the writ petition has contended that petitioner was initially appointed as Assistant Teacher on 23.10.1990 in Government Basic School, Dubaha, Muzaffarpur. After having served so many places, the petitioner was promoted to the post of Block Education Officer and posted at Parihar under Sitamarhi District.

3. While he was discharging the duty of Block Education Officer, he was trapped by Vigilance on a complaint



made by one Arun Kumar, leading to institution of Vigilance P.S. Case No. 38 of 2022. The petitioner was taken into judicial custody and after completion of investigation chargesheet was also submitted. The aforesaid incidence also led to suspension of the petitioner, as well as putting him under a departmental proceeding. In the mean time, the petitioner attained the age of superannuation on 31.12.2023. Notwithstanding the superannuation of the petitioner, he has not been accorded his due provident fund, gratuity, GIC, earned leave, pension and other admissible dues, compelling him to approach this Court.

4. A counter affidavit has been filed on behalf of respondent no. 7, the District Programme Officer, Establishment, Sitamarhi. Learned Advocate for the State referring to the averments made therein contended that the petitioner was caught red handed while taking bribe from the complainant/informant Arun Kumar which led to institution of the FIR and suspension of the petitioner. Later on, taking note of the serious nature of allegation and the petitioner on being found involve in grave misconduct, he was put to departmental proceeding, which has been converted under Rule 43B.

5. In the aforesaid premise it is contended that since the petitioner is facing judicial as well as departmental proceeding, hence in any view of the matter the petitioner is not



entitled to any pensionary benefits till the proceedings are culminated.

6. Having heard the learned Advocate for the parties and on perusal of the stand of the respondent no. 7, this Court does not find the reason assigned by the respondent is sustainable in law. Even if the petitioner is facing departmental proceeding or judicial proceeding, in any view of the matter the petitioner is entitled to get 90% of the pension and group provident fund amount alongwith other admissible dues. In no circumstances the 90% pension, GPF and GIC of the petitioner be withheld, unless it is specifically barred/prohibited under the law.

7. Hence this Court left with no option but to direct the respondent no. 3 to consider the claim of the petitioner for 90% of pension, GPF and GIC as well as subsistence allowance for the period in which the petitioner remained under suspension preferably within a period of 12 weeks' from the date of receipt/production of a copy of this order.

8. The writ petition stands disposed off.

(Harish Kumar, J)

supratim/-

U			
---	--	--	--

