

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14431 of 2024

=====

Trilokinath Singh Alias Triloky Nath Singh S/o Late Ram Gati Singh, R/o
Mohalla- Chinimill, Buxar, P.S.- Buxar (Town), Dist- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Primary Education, Bihar, New Secretariat, Patna.
2. The Director Primary Education, Bihar, New Secretariat, Patna.
3. The District Education Officer, Buxar.
4. The Accountant General, Bihar Veerchand Patel Path, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Awadhesh Kumar Mishra, Adv. Mrs. Pragati Singh, Adv. Mr. Shashank Shekhar, Adv. Ms. Shivani Mishra, Adv.
For the State	:	Mr. Vankatesh Kirti, AC to GA 2
For the AG	:	Mrs. Nivedita Nirvikar, Sr. Adv. Mr. Amarshakri, Adv. Mr. Pravin Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-07-2025

Heard the parties.

2. The petitioner, who superannuated from the post of Headmaster on 31.01.2015 from Bal Kusum Madhya Vidyalaya, Buxar, has approached this Court on being aggrieved with the inaction of the respondents in not extending his admissible retiral benefits including pension, GPF, gratuity and leave encashment.

3. Learned Advocate for the petitioner contended that the facts are admitted that while the petitioner was discharging



his duty in the school in question, in the meanwhile, an FIR came to be lodged bearing Buxar (T) P.S. Case No. 18 of 2013 against the petitioner with respect to misappropriation of food grains. In the aforesaid premise, the District Superintendent of Education, Buxar vide Memo No. 340 dated 08.02.2013 put the petitioner under suspension and thus the petitioner remained under suspension from February 2013 to July 2014. The petitioner is said to be guilty of embezzlement of a sum of Rs. 53955/- of M.D.M., which is equivalent to 17.18.250 quintal of rice. On account of the reasons afore noted and placing reliance upon a Bench decision in the case of ***Bhagwan Dayal Tiwari vs. The State of Bihar & Ors. [CWJC No. 1478 of 2018]***, the entire pensionary benefits and due salary for certain period have been withheld.

4. Learned Advocate for the petitioner submitted that admittedly the petitioner superannuated on 31.01.2015, and even accepted for the moment, the petitioner was facing judicial proceeding the date on which he superannuated, in such circumstances, the amount of provisional pension shall not be less than 90% in terms with rule 43(c) of the Bihar Pension Rules, 1950.

5. The issue as posed before this Court has been



crystallized by a Full Bench of this Court in the case of ***Arvind Kumar Singh vs. The State of Bihar & Ors.*** [2018 (2) PLJR 933], wherein the Court in no uncertain term held as follows:

“We have no hesitation in holding that after coming into force of the amendment to the Pension Rules by incorporating Rule 43(c) on 19th of July, 2012, an employee who is facing departmental inquiry or judicial proceeding on the date of his superannuation would be entitled to provisional pension which would include gratuity to the tune of an amount not less than 90 per cent.”

6. The Apex Court in the case of ***the State of Jharkhand & Ors vs. Jitendra Kumar Srivastava & Anr*** [(2013) 12 SCC 210] ruled that “a person cannot be deprived of his pension without the authority of law, which is the Constitutional mandate enshrined in Article 300A of the Constitution. It follows that attempt of the State Government to take away a part of pension or gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced.” The proposition is well settled that gratuity and pension are not the bounties. An employee earns these benefits by dint of his long, continuous, faithful and unblemished service. It is thus hard earned benefit which accrues to an employee and is in the nature of “property”. This right to property cannot be taken



away without the due process of law.

7. The Bench decision referred by the respondent authority, with due regard, would not be applicable in the case in hand, besides there is neither any adjudication of the issue nor consideration of the relevant provision and the decision rendered by this Court; and all the more it confined to payment of due salary for certain period.

8. In view of the aforesaid settled legal position, this Court has no hesitation to direct the respondent authorities to ensure payment of all the pensionary benefits and other dues in the light of the mandate of the Full Bench of this Court, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

9. The writ petition stands disposed of with the aforesaid observations and direction.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	29 .07.2025
Transmission Date	

