

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13717 of 2023

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Arun Kumar Prasad Son of Kamleshwari Bhagat, Resident of Village-
Mohaddi Nagar, P.S.- Mirzanhat, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Animal Husbandry Department, Bihar, Patna.
2. The Regional Director, Animal Husbandry Department, Bhagalpur.
3. The District Animal Husbandry Officer, Bhagalpur.
4. The Regional Director, Animal Husbandry Department, Munger.
5. The Sub-Divisional Animal Husbandry Department Officer, Sheikhpura, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Poddar Suresh Gandhi, Advocate
For the Respondent/s : Mr. Arif Daula Siddique, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 08-05-2025 Heard Mr. Suraj Narayan Yadav, learned counsel

for the petitioner and Mr. Arif Daula Siddique, learned

counsel for the State.

2. The petitioner, who superannuated on
30.09.2022 from the post of Head Clerk, Sub Divisional
Animal Husbandry, Sheikhpura, Munger has preferred the
present writ petition seeking a direction upon the
respondents to pay all the admissible retiral benefits and
other dues.

3. Learned counsel for the petitioner while



pressing the present petition has submitted that during pendency of the writ petition, the petitioner has been extended the benefit of GIC and provident fund but till date he has not been accorded admissible pension, gratuity and earned leave. In fact, when the service record of the petitioner was sent to the Office of the Accountant General, Bihar, an objection was raised that there had been a breakage in service of petitioner for the period 01.07.1998 to 28.12.2001, and thus he is found to be not entitled to get salary for the period. It has also been informed that over page no. 20 of the service book of the petitioner another page has been stucked and by this way the factum of breakage in service has been suppressed by tampering in the service book. Thus, the Office of the Accountant General sought a guidelines in this regard.

4. Learned counsel for the petitioner further contended that admittedly, the date on which the petitioner was superannuated there was neither any departmental or judicial proceeding and as such in any view the matter the petitioner is entitled to get all the pensionary benefits and other dues.



5. A counter affidavit has been filed on behalf of the respondent no. 2 to 5. Specific averment has been made that the petitioner for his personal gain and benefit tampered with the service book and carried out changes in his pay fixation in order to mislead the higher authorities and thereafter took undue benefit under the ACP/MACP scheme beyond his actual legal entitlement, which is a serious misconduct by a government servant. After due consideration a decision has taken to carry out the departmental proceeding even after the retirement of this petitioner under Rule 43(b) of Bihar Pension Rules, 1950. It has also been informed that as per the communication under letter no. 27 dated 31.04.2023, the Sub Divisional Animal Officer, Sheikhpura, quantified that in excess to tune of Rs. 43,29,057/- has been received by the petitioner. The conduct of the petitioner is said to be tinkered with gross irregularities and thus decision has been taken to proceed against him departmentally.

6. Considering the submissions advanced and the averments made in the counter affidavit it *prima facie* suggest that now the department has come out with a



decision to proceed against the petitioner under Rule 43(b) of the Bihar Pension Rules, 1950 on account of certain irregularities and misconduct as pointed herein, this Court is of the opinion that the date on which the petitioner superannuated there was neither any pending departmental proceeding nor judicial proceeding. Hence, in any view of the matter, the petitioner would be entitled to get admissible pension, gratuity and the earned leave; even if later on the department came to know that irregularities have been done at the level of the petitioner, the respondent-authorities cannot deprive the petitioner from getting at least provisional pension in order to sustain his livelihood in the evening of his life till final outcome of any proceeding. The charge, howsoever grave may be, cannot deprive a person to get his retiral benefits, save and except the prescription provided under the Bihar Pension Rules, 1950 and/ or any the other laws, which put an embargo on such right of an employee.

7. Considering the aforesaid facts, this Court deems it fit and proper to dispose of the writ petition with a direction to the respondent-authorities to consider the case



of the petitioner for provisional pension and other remaining benefits on the basis of fresh fixation made by the office of the Accountant General and ensure payment thereof till the final conclusion of the proposed departmental proceeding. Suffice it to observe that any pensionary benefit paid to the petitioner and its further entitlement shall be abide by the final outcome of the departmental proceeding.

8. The writ petition stands disposed off.

9. Let the exercise must be done preferably within a period of twelve weeks.

(Harish Kumar, J)

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