

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15578 of 2024

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Brahmdeo Yadav S/o Late Bishan Yadav, Resident of Village-Machaha, P.O.-
Kusha, P.S.-Triveniganj, District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Civil Surgeon cum Chief Medical Officer, West Champaran, Bettiah.
3. The Incharge Medical Officer, Primary Health Centre, Bagha-I, District-West Champaran.
4. The Treasury Officer, Bagha, West Champaran.
5. The District Provident Fund Officer, Bettiah, West Champaran.
6. The Accountant General (A and E) Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shiv Kumar, Advocate Ms. Sweta Barnawal, Advocate
For the Respondent/s	:	Mr. Government Pleader (13) Ms. Shweta Anand, AC to GP-13
For the AG Bihar	:	Mr. Ram Kinkar Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 22-08-2025 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The writ petition has been filed for the following
reliefs :-

*“For issuance of a writ in the nature of writ
of mandamus directing the concerned respondent
authorities to pay the petitioner all the post retireal
benefits such as pension, gratuity, leave
encashment, General Provident fund, Group
Insurance, and other legal dues payable to him
with upto date statutory interest, beside 18%*



quarterly compound interest, which has not been paid to him even after about two years from the date of attaining the age of superannuation. And/or pass such other order/orders as this Hon'ble Court may think fit and proper in the facts and circumstance of the case.”

3. Learned counsel for the petitioner stated that no departmental proceeding was ever initiated while the petitioner was serving with the State Government and as well as even after retirement and he submits that his case is covered by the judgment rendered by this Hon'ble Court in ***Rohit Raj v. State of Bihar*** reported in ***2023 (1) PLJR 257***.

4. This matter was adjourned yesterday to take instructions as to whether this case is covered under the judgment ***Rohit Raj v. State of Bihar*** which is reported in ***2023 (1) PLJR 257***.

5. Learned counsel for the State was directed to take instructions as to whether this case is covered by the judgment, which is proposed by the learned counsel for the petitioner. Learned counsel for the State has appeared and fairly submits that the petitioner's case is covered by the said judgment and the relief which has been sought for, by the petitioner may be directed to be extended in favor of this petitioner. The relevant



portion of the judgment, relied upon by the petitioner, is extracted hereunder :-

21. It is also settled proposition of law that departmental proceeding against an employee totally abates on death of an employee for the simple reason that on order to punish an employee, there must be subsistence of employer employee relationship. Once an employee died, the said relationship ceased. The defence, if any, is a personal defence available to the employee and no person can be substituted in place of a dead employee to defend the conduct of a dead employee, no order could have been passed withholding the retirement or any outstanding dues.

22. In any view of the matter the impugned action of the respondents in not making payment of retiral/outstanding dues to the petitioner is wholly unjustified and not sustainable in the eyes of law.

23. Accordingly, this Court directs the concerned respondents to ensure the payment of all the admissible death-cum-retiral/outstanding dues to the petitioner by treating his mother died in harness, as early as possible, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

24. So far the payment of arrears of salary for the period March 2016 to 29.07.2020 is concerned, since the issue with regard to the stoppage of salary for the said period is subjudice in C.W.J.C. No. 14498 of 2019, the same shall be abide by the final outcome of the said writ petition.

25. The present writ application stands allowed to the extent indicated hereinabove.

6. At this stage, the petitioner points that the detailed representation in continuance with the earlier representation



dated 13.07.2024 would be submitted by the petitioner for the redressal of his grievances and the same may be directed to be decided strictly in consonance with the ratio laid down in the aforesaid case and considering the aforesaid facts and stand of the State, this Court directs the representation of this petitioner proposed to be filed with supporting materials, which would be essential for disposal of the claim of the petitioner, to be decided within a period of eight weeks and in case of any assistance required with respect to documents being in possession of the petitioner, which in the opinion of the authorities, might be essential for adjudication, the said assistance shall be provided, as and when required by the petitioner.

7. With the aforesaid observations, the writ petition stands disposed off with the direction that the representation shall be decided within the period aforesaid and the consequential benefits falling in favor of the petitioner shall be extended to the petitioner within a period of two weeks thereafter.

(Ajit Kumar, J)

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