

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1267 of 2025

Pradeep Kumar Gupta Son of Ram Nath Prasad Gupta Resident of Flat No.-
103 A, Surya Mahalaxmi Apartment, East Boring Canal Road, P.S.- Buddha
Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vinay Ranjan, Adv. Mr. Abhishek Teerthankar, Adv. Mr. Utkarsh Rajan, Adv. Mr. Prashant Shekhar, Adv.
For the Respondent/s	:	Mr. Government Pleader (17)

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 29-06-2026

Heard Mr. Vinay Ranjan, learned Advocate for the petitioner and Mr. Amit Bhushan, learned Advocate for the State.

2. The petitioner, aggrieved with the order as contained in Memo No. 19285 dated 02.12.2024 to the extent it relates to withholding off 10% pension, Full Gratuity and Earned leave issued by the Joint Secretary, General Administration Department, Government of Bihar, has approached this Court seeking quashing of the same. The challenge has been made on the premise that besides the fact that the petitioner has not only exonerated in the departmental proceeding, the order of sanction



granted by the respondent also came to be quashed vide order dated 07.07.2025 passed in Cr.W.J.C. No. 2038 of 2024.

3. The matter was heard on 11.09.2025 and this Court taking note of the aforesaid facts directed the respondents to ensure payment of all the pensionary benefits/outstanding dues in accordance with the law if no impediment, otherwise comes in the way of extending the benefits.

4. In pursuant to the order of this Court, a supplementary counter affidavit has been filed on behalf of the respondent no. 2. It is specifically contended that there is no confrontation that vide order dated 07.07.2025, a bench of this Court in Cr.WJC No. 2038 of 2024 has quashed the Memo No. 53 dated 20.05.2020 issued by the Secretary to the Government Law Department, Bihar, whereby sanction has been accorded to prosecute against the petitioner, but while quashing the same the State was also given a liberty to pass a fresh sanction order in accordance with law.

5. In the light of the liberty aforesaid, the case of the petitioner with regard to sanction for prosecution was considered afresh and vide order no 250 dated 25.09.2025 the Law Department, Government of Bihar has once again issued the sanction order for prosecution against the petitioner. The



aforesaid sanction order for prosecution has also been brought on record by way of Annexure B to the supplementary counter affidavit.

6. On the strength of the aforesaid letter Mr. Prashant Bhushan, learned Advocate for the State submitted that there is no error in withholding of 10% of pension and 100% of gratuity in as well as earned leave.

7. Mr. Vinay Ranjan, dispelling the aforesaid contention has straightway drawn the attention of this Court to the explanation Rule 43(b) (i) of the Bihar Pension Rules, 1950 and submitted that for the purposes of the rule, a judicial proceeding shall be deemed to have been instituted, in the case of criminal proceeding, on the date of which complaint is made or charge sheet is submitted, to a criminal Court. A supplementary counter affidavit has also been filed on behalf of the petitioner and a categorical averment has been made in paragraph no. 5 that in the present case till date even a charge sheet has not been submitted against the petitioner before the competent Court. He further drew the attention of this Court to the Notification No. 9217 dated 25.05.2026 issued under the signature of the Principle Secretary General Administrative Department, Bihar, Patna, wherein the Government has clarified that the pendency



of criminal case against a Government employee shall be treated to be commenced from the date of framing of the charge by the competent Court and not from the date of registration of FIR or sanction of prosecution.

8. In view thereof he thus submits that since neither there is a departmental proceeding pending against the petitioner nor the judicial proceeding has commenced in terms with the provisions of law, the petitioner is entitled to get all the remaining 10% of pension, Full Gratuity and the Earned leave along with other consequential benefits.

9. After having heard the learned Advocate for the respective parties, this Court finds substance in the submission advanced by learned Advocate for the petitioner. The Bihar Pension Rules especially Rule 43b, (Explanation b) (i) clearly says that the judicial proceeding shall be deemed to have been initiated only when a complaint is made or charge sheet is submitted to a Criminal Court. The State Government has also clarified the position with regard to the initiation of judicial proceeding against a Government employee and bare reading of which it clearly appears to this Court that a judicial proceeding shall be deemed to have been initiated once the charges are framed.



10. Once the state itself has clarified the aforesaid position by issuing a resolution recently on 25.05.2026 and the petitioner has made a specific averment that till date even the charge sheet has not been submitted, in such circumstances this court is left with no option, but to direct the respondent no. 2 to consider the claim of the petitioner for payment of 10% of pension, full gratuity and Earned leave, besides other consequential benefits preferably within a period of four weeks from today, in the light of the resolution dated 25.05.2026.

11. It is made clear that if the case of the petitioner is fully covered under the aforesaid resolution all the payment shall be made without any further delay within a further period of four weeks.

12. With the aforesaid observation and direction, the present writ petition stands disposed off.

(Harish Kumar, J)

sumit/-

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

