

Sec. 6
10/12/14

IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)

C.W.J.C.No. _____ / of 2014.

Ramadhin Sah.....Petitioner

Versus

The State of Bihar & Others.....Respondents.

Sub: Retirement Benefit (School Service).

I N D E X

<u>S.No.</u>		<u>Particulars</u>	<u>Page No.</u>
1.		An application Under Article 226 of the Constitution of India with Affidavit.	1 to 14
2.	<i>Annexure: 1</i>	A Photo Copy of the representation filed by the petitioner before D.E.O., Madhepura dated 13.8.13	15 -
3.	<i>Annexure: 2</i>	A Photo Copy of the representation dated	
4.	<i>V A K A L A T N A M A</i>		

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Ramadhin Sah.....Petitioner

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The State of Bihar & Others.....Respondents.

SYNOPSIS

That the petitioner seeks indulgence of this Hon'ble Court for issuance of writ/writs, order/orders, direction/directions particularly in the nature of Mandamus, commanding and directing the respondents to immediately pay to the petitioner all the retirement benefits such as Gratuity, Leave Encashment, Group Insurance, General Provident Fund and also fixed the final pension with arrear of pension along with interest @ 18% per annum for delay payment, as because the petitioner has been retired on 31.01.2013 on the post of Assistant Teacher from Utrakramit Madhya

Vidyalaya, Bihariganj (Harijan Tola), District:
Madhepura after completion of his entire tenure of
service.

REEVANT FACTS WITH DATES

3.10.70	Petitioner was appointed as Assistant Teacher by Secretary, Primary School, Mahesua, Block: Madhepura, District: Madhepura.
05.10.70	Petitioner joined the service as Assistant Teacher in the aforesaid school.
=	Later on the said school was constituted and service book of the petitioner was opened.
31.01.13	Petitioner retired from service on the post of Assistant Teacher from Utkarmit Madhya Vidyalaya, Bihariganj (Harijan Tola), Block: Bihariganj, District: Madhepura.
=	No retirement benefits amount has been paid to the petitioner even no provisional pension has been fixed by the respondents till today.
=	Petitioner filed representation before the

	D.E.O., Madhepura requesting therein for payment of the entire retirement benefits amount as well as fixed the final pension with arrear and interest for delayed payment.
	Again petitioner made representation before the Regional Deputy Director of Education, Saharsa for redressal of his grievance but no action has been taken by him in this regard.
Hence the present writ application is being filed.	

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)**

C.W.J.C.No. _____ / of 2014.

In the matter of an
application under Article
226 of the Constitution of
India

AND

In the matter of:

Ramadhin Sah, son of Late Buchan Sah, resident of
Village: Mahesua, P.S. & District: Madhepura.

.....***Petitioner.***

Versus

1. The State of Bihar through the Principal Secretary,
Department of Human Resources, Government of
Bihar, Patna.

The humble petition on behalf of the petitioner above named.

MOST RESPECTFULLY SHEWETH :

1. That the petitioner of this case filed this writ application for grant of following reliefs:-

- i) For issuance of writ/writs, order/orders, direction/directions particularly in the nature of Mandamus, commanding and directing the respondents to immediately pay to the petitioner all the retirement benefits such as Gratuity, Leave Encashment, Group Insurance, General Provident Fund and also fixed the final pension with arrear of pension as because the petitioner has been retired on 31.01.2013 on the post of Assistant Teacher from Utrakramit Madhya Vidyalaya, Bihariganj (Harijan Tola), District: Madhepura after completion of his entire tenure of service.

accordingly the petitioner after completion of tenure of service on the post of Assistant Teacher, he has been retired on 31.01.2013 but the retirement benefits of the petitioner has not been paid by the respondents as such the action of the respondents is not illegal?

- ii) Whether the petitioner has been retired on 31.01.2013 but the respondent has not paid the Gratuity amount, Leave Encashment amount, Group Insurance amount, General Provident Fund amount as well till today no final pension has been fixed as such the action of the respondent is not illegal, malafide and discriminatory?
- iii) Whether after retirement the concerned respondents has also not paid the provisional pension till today and having without pay the entire retirement benefit of the petitioner since the service of the petitioner on the post of

Assistant Teacher for the period of 26.04.84 to 23.12.86 has been confirmed through letter no. 245 dated 26.03.08 issued by the Head Master and also the service of the petitioner has also been confirmed for the period 01.11.96 to 31.05.08 as well for the period 01.06.08 to 31.01.12 has been confirmed but in spite of that respondent concerned did not pay single farthing of the retirement benefit of the petitioner?

- iv) Whether the respondents concerned did not taken any action so that to pay the pension as well as other retirement benefit amounts since the petitioner has been retired on 31.03.13 and due to non-payment of his retiral dues he is facing starvation as such the action of the respondents is not illegal, malafide and in discriminatory?

3. That the petitioner is a Citizen of India and originally resident of District Madhepura, within the territorial jurisdiction of this Hon'ble Court.
4. That the short facts of the case is that petitioner was initially appointed on 03.10.70 on the post of Assistant Teacher by the Secretary, Primary School, Mahesua and accordingly the petitioner joined on 05.10.70 at Primary School, Mahesua under Block: Madhepura, District: Madhepura and thereafter the aforesaid school was constituted by the State Government.
5. That on 31.01.2013 the petitioner after completion of the tenure of service, has been re tired on the post of Assistant Teacher from Utkramit Madhya Vidyalaya, Bihariganj (Harijan Tola), District: Madhepura but the retirement benefits of the petitioner as such Gratuity, Leave Encashment, Group Insurance G.P.F. etc. has not been paid by the respondents till today.

6. That after retirement, the respondents has not even granted provisional pension till today while the petitioner has gone to the office of respondents concerned several times with folded hand and filed several representations praying for payment of all the retirement benefits amount but the concerned respondents could not take any action in this regard.
7. That the service of the petitioner has been confirmed for the period 26.04.1984 to 23.12.96 through letter no. 245 dated 26.03.08 an further for the period 01.11.96 to 31.05.08 service of the petitioner on the post of Assistant Teacher has been confirmed by the respondents concerned and it is further service of the petitioner has been confirmed w.e.f. 01.06.08 to 31.01.12 and after completion of tenure of service of the petitioner he retired from service on the post of Assistant

Teacher on 31.01.13 from the Utkramit Madhya Vidyalaya, Bihariganj (Harijan Tola), Madhepura.

8. That from perusal of the service book of the petitioner it appears that initially the petitioner was appointed on 03.10.70 on the post of Assistant Teacher and accordingly he joined on 05.10.70 in the aforesaid school and accordingly the higher officer has recommended the service of the petitioner stating that the conduct of the petitioner was very good having without any complain against the petitioner, as such the entire retirement benefit has been withheld by the concerned respondent while the petitioner has approached before the respondent concerned for payment of entire retirement benefit amount but they did not take any action and petitioner is being harassed by them.
9. That since the petitioner is an old man and retired government employee having there is no any

2012 to January 2013 has been also withheld by the respondent concerned, the reasons best known to them, hence the petitioner also prayed to direct the respondent concerned to immediately pay the arrear of salary for the aforesaid period with interest to the petitioner.

13. That under the facts and circumstances stated above, the action of the respondents is illegal, malafide and in discriminatory in nature for which the petitioner is being continuously harassed by them.
14. That the petitioner having no alternative or efficacious remedy save and except to file this writ application for redressal of his grievance before this Hon'ble Court.
15. That the petitioner has earlier not moved for grant of any writ application previously before this Hon'ble Court in the present matter.

It is, therefore, prayed that Your Lordship may kindly be pleased to admit this application, issue Rule NISI, calling upon the respondents as to why the reliefs sought for in paragraph no.1 of the instant writ application be not granted in favour of the petitioner at the time of admission stage and after hearing the parties and considering the cause be shown if any, be further pleased to allow the reliefs as prayed for in paragraph 1 of this writ application.

AND/OR

Pass such other order or orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

And for this, the petitioner shall ever pray.

AFFIDAVIT

I, **Ramadhin Sah**, aged about 61 years, son of Late Buchan Sah, resident of Village: Mahesua, P.S. & District: Madhepura, do hereby solemnly affirm and state as follows:

1. That I am the petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this writ petition have been read over and explained to me in Hindi which I have understood the same. The statements made in paragraph nos.....10,11..... true to my knowledge and those made in paragraph nos.2,3,11,12..... are correct to my information derived from the records of the case, which I believe to be true, and rest are by way of submissions before this Hon'ble Court.
3. That the annexures are true/photo copies of their respective originals.

- रामाधीन साह

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सेवा में,
जिला शिक्षा पदाधिकारी,
मधेपुरा ।

विषय:-सेवा निवृत्त बकाया राशि एवं पेन्सन भुगतान करने के संबंध में ।

महाशय,

निवेदन पूर्वक कहना है कि मैं रामधीन साह पिता स्व० बुच्चन साह ग्राम महेसवा, थाना एवं जिला मधेपुरा का निवासी हूँ । दिनांक 31.01.2013 को सहायक शिक्षक उत्कर्मित मध्य विद्यालय, बिहारीगंज (हरिजन टोला) मधेपुरा से सेवा निवृत्त हुआ था लेकिन आज तक ना तो मुझे सेवा निवृत्त का बकाया राशि का भुगतान हुआ है और ना ही औपबंधिक पेन्सन ही दिया जा रहा है जिसके कारण हमारी दैनिक जीवन अत्यन्त ही दयनीय हो गया है । मेरे परिवार ने तीन बेटियाँ एवं दो बेटे हैं । बकाया राशि का भुगतान नहीं करने के कारण न तो अपनी बेटियों की शादी कर पा रहा हूँ और मेरे बेटे जो कि मधेपुरा कॉलेज में B.Sc. (II) Year का छात्र है उसका पढ़ाई भी बाधित हो रहा है । पेन्सन नहीं मिलने के कारण मैं उसको समय पर पैसा नहीं भेज पाता हूँ जिसके कारण उसका पढ़ाई छुट रहा है । साथ ही साथ श्रीमान् को मैं यह भी अवगत कराना चाहता हूँ कि मेरी पत्नी का ऑपरेशन कराना अत्यन्त ही आवश्यकता है लेकिन पैसे के अभाव में मैं उसका समुचित ईलाज नहीं करा पा रहा हूँ । इससे पूर्व भी मैं श्रीमान् को कई बार आवेदन के माध्यम से एवं स्वयं भी सारी स्थितियों से अवगत करा चुका हूँ ।

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2.

अतः श्रीमान् से नम्र निवेदन है कि मेरे अत्यन्त ही दैनीय स्थिति देखकर एवं मेरे परिवार की स्थितियों पर गौर करते हुए बकाया सेवा निवृत्त राशि एवं औपबन्धित पेन्सन भुंगतान करने का आदेश निर्गत किया जाए ।

आपका विश्वासी

दिनांक - 13.08.2013

(रामधीन साह)

ग्राम - महेसवा,

थाना + जिला - मधेपुरा ।

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सेवा में,

श्रीमान् क्षेत्रीय उप शिक्षा निदेशक,
कोशी प्रमंडल, सहरसा ।

विषय:-सेवा निवृत्त बकाया राशि एवं पेन्सन भुगतान करने के संबंध में ।

महाशय,

निवेदन पूर्वक कहना है कि मैं रामधीन साह पिता स्व० बुच्चन साह ग्राम महेसवा, थाना एवं जिला मधेपुरा का निवासी हूँ । दिनांक 31.01.2013 को सहायक शिक्षक उत्कर्मित मध्य विद्यालय, बिहारीगंज (हरिजन टोला) मधेपुरा से सेवा निवृत्त हुआ था लेकिन आज तक ना तो मुझे सेवा निवृत्त का बकाया राशि का भुगतान हुआ है और ना ही औपबंधिक पेन्सन ही दिया जा रहा है जिसके कारण हमारी दैनिक जीवन अत्यन्त ही दयनीय हो गया है । मेरे परिवार ने तीन बेटियाँ एवं दो बेटे हैं । बकाया राशि का भुगतान नहीं करने के कारण न तो अपनी बेटियों की शादी कर पा रहा हूँ और मेरे बेटे जो कि मधेपुरा कॉलेज में B.Sc.(II) Year का छात्र है उसका पढ़ाई भी बाधित हो रहा है । पेन्सन नहीं मिलने के कारण मैं उसको समय पर पैसा नहीं भेज पाता हूँ जिसके कारण उसका पढ़ाई छुट रहा है । साथ ही साथ श्रीमान् को मैं यह भी अवगत कराना चाहता हूँ कि मेरी पत्नी का ऑपरेशन कराना अत्यन्त ही आवश्यकता है लेकिन पैसे के अभाव में मैं उसका समुचित ईलाज नहीं करा पा रहा हूँ । इससे पूर्व भी मैं श्रीमान् को कई बार आवेदन के माध्यम से एवं स्वयं भी सारी स्थितियों से अवगत करा चुका हूँ ।

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2.

अतः श्रीमान् से नम्र निवेदन है कि मेरे अत्यन्त ही दैनीय स्थिति देखकर एवं मेरे परिवार की स्थितियों पर गौर करते हुए बकाया सेवा निवृत्त राशि एवं औपबन्धित पेन्सन भुगतान करने का आदेश निर्गत किया जाए ।

आपका विश्वासी

दिनांक - 03.05.2014

(रामधीन साह)

ग्राम - महेसवा,

थाना + जिला - मधेपुरा ।

earning in his family members and the petitioner is seriously ill due to old ailment and no person who looks after the petitioner since there is no other livelihood of the petitioner, therefore, it is essential for direction upon the respondents to immediately pay all the retirement benefit amount to the petitioner.

10. That after retirement petitioner filed an application by way of representation before the District Education Officer, Madhepura praying for payment of all retirement benefits such as Gratuity, Leave Encashment, Group Insurance G.P.F. amount and also pay the pensionary benefit in the name of petitioner but till today no action has been taken by the respondent concerned in this regard.

A Photo Copy of the representation filed by the petitioner before D.E.O., Madhepura dated ~~12.2.13~~^{3.5.14}

- ii) Further, for direction upon the respondents to pay all the retirement benefits with interest @ 18% per annum with effect from the date of retirement i.e. 31.01.2013 till today.
 - iii) For further any other relief/reliefs, order/orders, direction/directions may deem fit and proper in the facts and circumstances of the case.
2. That the moot substantial questions of law besides other arises for consideration by this Hon'ble Court are as follows :-
- i) Whether the action of the respondents is not illegal, malafide and in discriminatory so that the petitioner has started his career on the post of Assistant Teacher on 05.10.70 on which date the petitioner was appointed by the Secretary, Primary School, Mahesua, District: Madhepura later on the said school was constituted by the State Government and

2. The Director, Secondary Education, Department of Human Resources, Govt. of Bihar, Patna having its office at Budha Marg, Patna.
3. Regional Deputy Director of Education, Saharsa.
4. The District Magistrate-cum-Collector, Madhepura.
5. The District Program Officer, Madhepura.
6. District Education Officer, Madhepura.
7. Head Master, Utkarmit Madhya Vidyalaya, Bihariganj (Harijan Tola), Block: Bihariganj, District: Madhepura.
8. District Treasury Officer, Madhepura.
9. District Provident Fund Officer, Madhepura.
10. The Accountant General, Bihar, Patna.

.....**Respondents.**

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief justice of the High Court of Judicature at Patna and her companion justices of the said Hon'ble Court.