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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction Case)

C.W.J.C. No. _____ of 2013

Surendra Narayan Sinha Petitioner.

Versus

The State of Bihar and others Respondents.

Sub: Retirement Benefits.

INDEX

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Petition with Affidavit 1 to 9.
2.	Annexure-1: Copy of order dated 21.01.10.....	10
3.	Annexure-2: Copy of the representation dated 15.01.2013 11
4.	<u>VAKALATNAMA</u>	

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction Case)

C.W.J.C. No. _____ of 2013

Surendra Narayan Sinha Petitioner.

Versus

The State of Bihar and others Respondents.

SYNOPSIS

Prayer: This writ application is being filed for issuance of an appropriate writ/writs, order/orders, direction/directions to the Respondents to pay the petitioner all retiral dues including gratuity, full leave encashment and fix the pension and pay to the petitioner with all dues arrears forthwith and also pay the 18% interest on the dues amount and further for any other relief/reliefs for which the petitioner may be found legally entitled to under the facts and circumstances of the case.

LIST OF DATE'S

31.05.2011: Petitioner after being serving long decade to the Respondent State retired from service from office of the Respondent No.5 as Electrician.

: II :

:- Petitioner submitted all the relevant papers and documents before the Respondents concerned soon after his retirement from service for payment of his retiral dues and other admissible dues.

But the same has not been to the petitioner till date despite passing order for making payment.

15.01.2013: Petitioner filed several representations before the Respondents lastly on 15.01.2013 requesting therein to settle his legal and admissible dues, but no heed is being paid.

Hence this writ application.

IN THE HIGH COURT OF JUDICATURE AT PATNA
(Civil Writ Jurisdiction Case)

C.W.J.C. No. _____ of 2013

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

And

In the matter of

Surendra Narayan Sinha, son of Sri Jagdish Narayan Singh,
resident of village-Madhubani, P.O.-Madhubani, P.S.-
Khajanchi Hat, District-Purnea.

..... Petitioner.

VERSUS

1. The State of Bihar through the Commissioner-cum-Secretary, Minor Irrigation Department, Government of Bihar, Patna.

2. The Secretary, Minor Irrigation Department, Government of Bihar, Patna.
3. The Project Coordinator, Tube well Prabhar, Bihar, Patna.
4. The Chief Engineer (North), Nalkoop Prabhag, Minor Irrigation Department, Muzaffarpur.
5. The Executive Engineer, Tube well Division, Madhepura.
6. The District Provident Fund Officer, Madhepura.
7. The Treasury Officer, Madhepura.
8. The Accountant General, Bihar, Patna.

..... Respondents.

To,

The **Hon'ble Justice Miss Rekha M. Doshit**, the Hon'ble Acting Chief Justice of the High Court of Judicature at Patna and her Companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above-named;

Most Respectfully Sheweth:-

1. That this writ application is being filed for issuance of an appropriate writ/writs, order/orders, direction/directions to the Respondents to pay the petitioner all retiral dues including gratuity, full leave encashment and fix the pension and pay to the petitioner with all dues arrears forthwith and also pay the 18% interest on the dues amount and further for any other relief/reliefs for which the petitioner may be found legally entitled to under the facts and circumstances of the case.

2. That the main questions of law involved in this writ application are as follows:-
 - i) Whether the action of the Respondents is bad in law or not?

 - ii) Whether the Respondents have got any justification for withholding the retiral benefits of the petitioner or not?

- iii) Whether the petitioner is entitled the full pension as well as other outstanding benefits or not?
- iv) Whether the action of the Respondents is arbitrary, malafide and against the established principle of law or not?
- v) Whether the Respondents are bound to pay all retiral dues to the petitioner with statutory as also penal interest or not?
- vi) Whether in any view of the matter the action of the Respondents is bad in law or not?

3. That the petitioner is citizen of India and as such, he is entitled to rights and benefits granted by the Constitution of India.

4. That it is stated that the petitioner retired on 31.05.2011 from the office of the Respondent No.5 as Electrician and the petitioner submitted all relevant papers in office of Respondent No.5 for

payment of retiral benefits and fixation of pension but till date neither pension has been fixed nor retiral dues has been paid fully to the petitioner.

5. That it is necessary to state here that the petitioner's increment dues since 01.08.2005 for which the Respondent No.5 issued the order dated 21.01.2010 but till date dues increment has not been paid to the petitioner.

A True/photo copy of order dated 21.01.2010 is annexed herewith and marked as Annexure-1 to this writ petition.

6. That it is also necessary to state here that the arrear of salary on the basis of 6th pay Commission not paid to the petitioner and promotional benefit also not given to the petitioner for which the petitioner filed several representations before the authority.

7. That it is also relevant to state here that on the basis of 6th pay revision Commission the benefit allowed to the petitioner by the Respondent No.5 by order dated 19.08.2010, but all benefit not given to the petitioner till date and pension has also not fixed by the Respondent No.5 till date.
8. That it is stated that the Respondent No.5 send the provisional sanction of the gratuity to the office of the Respondent No.8 by letter dated 16.06.2011, but till date the pension has not been fixed to the petitioner and all retiral dues also not paid to the petitioner for which the petitioner moving from pillar to post.
9. That it is necessary to state here that the Respondents are issued several orders regarding the claim of the petitioner but they have not paid any retiral dues to the petitioner for which the petitioner has filed several applications before the Respondents, lastly on 15.01.2013 before the Respondent No.5.

A True/photo copy of
the representation dated

15.01.2013 is annexed herewith and marked as Annexure-2 to this writ petition.

10. That it is also necessary to state here that the petitioner has filed all relevant documents before the authority but they are sitting tight over the matter and not paying the admissible dues to the petitioner for which the petitioner moving from pillar to post for redressal of his grievance.
11. That the petitioner has requested several times before the Respondents requesting therein to settle his legal dues and pay all the retiral dues but the Respondents are not paying any heed in this regard and nothing has been paid to him till date.
12. That in the facts and circumstances as stated above it is crystal clear that only to harass the petitioner, the Respondents are not paid the retiral dues to the petitioner.

13. That the petitioner has got no other equally efficacious and speedy alternative remedy than to invoke the extraordinary writ jurisdiction of this Hon'ble Court for redressal of his genuine grievance.
14. That the petitioner has not moved before this Hon'ble Court earlier in this matter.

It is therefore, prayed that **Your Lordships** may graciously be pleased issue Rule NISI, calling upon the Respondents to show cause as to why the relief prayed for in para-1 of this writ petition be not allowed and after return of the rule cause being shown, if any, and after hearing the parties be pleased to allow this writ application granting reliefs prayed for in paragraph No.1.

And/or

May pass any such appropriate order or orders as to Your Lordships may deem fit and proper.

And for this, the petitioner shall ever pray.

A F F I D A V I T

I, Surendra Narayan Sinha, aged about 62 years, son of Sri Jagdish Narayan Singh, resident of village-Madhubani, P.O.-Madhubani, P.S.-Khajanchi Hat, District-Purnea; do hereby solemnly affirm and state as follows:-

1. That I am petitioner in the instant case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this writ application have been read over by me and have fully understood the same and the statements made in paragraph No.are true to the knowledge the deponent and those made in paragraph Nos. are true to my information derived from the record of this case and rest are by way of submissions to this Hon'ble Court.
3. That the Annexure are true/typed copies of their respective originals.

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कार्यपालक अभियंता का कार्यालय
नलकूप प्रमण्डल, मधेपुरा।

कार्यालय-आदेश

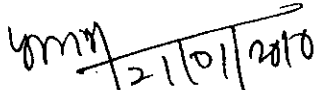
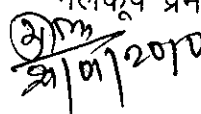
श्री सुरेन्द्र नारायण सिन्हा, विधुत्तक को बिहार सेवा संहिता के नियम 83 के तहत वेतनमान 4000-100-6000 में वार्षिक वेतन वृद्धि निम्न तिथि एवं दर से स्वीकृति प्रदान की जाती है।

क्रमांक	तिथि	मूल वेतन	वेतन वृद्धि	वृद्धित वेतन	अभियुक्ति
1.	01.08.05	5400=00	100=00	5500=00	


कार्यपालक अभियंता
नलकूप प्रमण्डल, मधेपुरा

पत्रांक 70 / मधेपुरा, दिनांक 21-01-2010

प्रतिलिपि :- श्री सुरेन्द्र नारायण सिन्हा, विधुत्तक/कोषागार पदाधिकारी,
मधेपुरा/प्रमण्डलीय वेतन विपत्र लिपिक, मधेपुरा को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।


कार्यपालक अभियंता
नलकूप प्रमण्डल, मधेपुरा

21/01/2010

संख्या - 2

सेवा में,

कार्यपालक अभियन्ता

नलकुप प्रमंडल मधेपुरा

विषय-सेवा निवृत्ति के पश्चाम पेंशन आदि का भुगतान नहीं हुआ है हेतु आवेदन पत्र।

महाशय,

उपरोक्त विषय के संबंध में कहना है कि मैं दिनांक 31.5.2011 को सेवानिवृत्त हो गया हूँ। सेवा निवृत्ति के पूर्व सभी प्रकार के अभिलेख को समर्पित कर चुका हूँ। मुझे अभी तक सेवा निवृत्ति से संबंधित कोई भी लाभ नहीं मिला है। मैं विषम परिस्थिति से जुझ रहा हूँ। साथ ही साथ आग्रह है कि बकाया सहित प्रमाण पत्र भी मेरे नाम से निर्गत किया जाए जवकि मैं सभी प्रकार के प्रभार दे चुका हूँ।

अतः श्रीमान् से आग्रह है कि सेवा निवृत्ति के पश्चात मिलने वाले सभी प्रकार का लाभ का भुगतान कर यश का भागी बने।

विश्वासभाजक
सुरेन्द्र नारायण सिन्हा
सेवा निवृत्त विधुत्तक
नलकुप प्रमंडल मधेपुरा
ग्राम+पो0-मधुवनी, थाना
खजांची हाट जिला पूर्णियां

दिनांक 15.1.2013