

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.153 of 2021

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Upendra Ram Son of Late Doman Ram, Resident of Ward No.-09, Temuhan,
Village and Post-Ahiyapur, Police Station-Mansoorchak, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Government of Bihar, New Secretariat, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Begusarai
4. The District Education Officer, Begusarai.
5. The District Programme Officer (Sarv Shiksha), Begusarai.
6. Incharge Headmaster, Higher Secondary School, Bhawanipur, Block-Mansoorchak, District-Begusarai
7. Accountant General (A & E), Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No.2, Advocate
		Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. Subhash Chandra Mishra, SC-16
For the Res.-BEPC	:	Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

10 31-01-2023 Heard learned counsel for the petitioner and counsel
for the State.

The present application has been filed seeking direction to the respondent authorities to pay the post retiral dues i.e. arrears of pension, current pension, gratuity as well as half of G.P.G. amount Rs.78,673/- and other retiral dues which has not been paid to the petitioner till today alongwith statutory interest till the payment of the aforesaid amount and for other reliefs to which the petitioner may be found entitled.

Counsel for the petitioner submits that petitioner was joined on the post of Assistant Teacher, Primary School, Badabkhadda East (Khodabandpur) on 07.09.1999. He was transferred to the Higher Secondary School, Bhawanipur Mansoorchak, Begusarai w.e.f. 20.09.2007. The petitioner retired from the post of Headmaster from the Higher Secondary School, Bhawanipur, Mansoorchak, Begusarai. Counsel for the petitioner submits that after retirement of the petitioner, he has filed several representations and reminders, giving details of amount due and made request for payment of entire dues but respondent authorities have not taken any action and sat over the matter.

Learned counsel for the State submits that petitioner was working on the post of Assistant Teacher and subsequently he superannuated on 30.06.2019 from the post of Headmaster, Higher Secondary School, Bhawanipur, Mansoorchak, Begusarai. Upon getting knowledge about his retirement, a detail report was called for and after going through the document, it was found that an amount of GPF Rs.4,40,291/- + Rs.78,673/- total amount of Rs.5,18,964/-, amount of earned leave Rs.4,99,202/- and amount of GIC Rs.12,415/- have already been paid to the petitioner, which has been accepted by

the petitioner before concerned DDO, Mansoorchak. It has been also informed that the office of DPO has demanded his service book and other related papers for payment of other retiral benefit but it has not been provided by the petitioner and it has been found that Rs.10,70,290/- has not been paid to the SSA, Begusarai, whereby he had received for School Building Construction Fund, in this regard series of letters were issued time to time to the petitioner but the same amount has not been deposited, thereafter letter no.2000 dated 18.10.2021 has been issued by which the adjustment was proposed to be made from the petitioner's due amount from his retiral benefit. But the petitioner has filed the present writ petition and still not ready to adjust the said amount, which was received by the petitioner in capacity of In-charge Headmaster of the Middle School, Mansoorchak, Begusarai.

It is submitted by counsel for the petitioner that the petitioner is not responsible for construction of school rather a committee was responsible for the purpose of construction of the said school and therefore, he may not be held responsible because whatever action taken by him, it was done by the committee only.

The respondent had filed a supplementary counter

affidavit in this case, in which it has been submitted that the petitioner was posted as Headmaster in Middle School, Bhawanipur Mansoorchak Block but he was not vigilant of his responsibility according to the guidelines of the Education Department. There was an agreement prepared between department as the first party and the petitioner and others being the second party for the construction of school building, which is Annexure-A. By virtue of the said agreement Rs.18,45,000/- was sanctioned for the purpose of construction of school building and for the purpose of operation of the account building construction committee and operation of account have dealt in Clause-3.2 according to which the Principal and the Secretary of School Education Committee where the signatory of the account, in the said account petitioner was one of the signatory of the said agreement. Under Clause-8 of the present agreement, it has been categorical mentioned that in case of any dispute relating to the present agreement, the matter shall be resolved by virtue of Arbitration/conciliation by the Collector/DDC.

Here the petitioner filed writ application without exhausting the provision laid down under Clause-8 of the agreement before this Court and want to resolve the dispute

ignoring the forum which is already established in the agreement.

This court is not inclined to enter into the merit or demerit of this case but disposed off this writ petition granting liberty to the petitioner that the dispute arising by virtue of the agreement Annexure-A (supplementary counter affidavit) and its Clause-8 empowers the Collector/DDC to resolve the said dispute first.

In this view of the matter, the petitioner is directed to move firstly before the said authority as mentioned under Clause-8 of the agreement Annexure-A (Supplementary counter affidavit) and the authority shall decide this dispute within 90 days from the date of filing of the representation.

With this direction, this writ application is disposed off.

(Dr. Anshuman, J.)

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