

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20680 of 2010

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Jainendra Kumar Jain S/o Late Ganesh Prasad, R/o Vill.- Brahmasthan,
P.O.- Rukhai, P.S.- Chandi, Distt.- Nalanda At Present Residing At Abc
Block, Bhut Nath Road, Patna, Distt.- Patna

.... Petitioner

Versus

1. The State of Bihar
2. The Director, Secondary Education, Bihar, Patna
3. The District Education Officer, Patna
4. The Headmaster, J.D. Girls High School, Adalat Ganj, Patna
5. The Accountant General, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. R. K. Rajan, Advocate.
For the Respondents : Ms. Archana Prasad, A.C. to S.C. 16
Mr. L.P.K. Rajgriha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
ORAL ORDER

5 27-03-2015 Heard learned counsel for the

petitioner and the State.

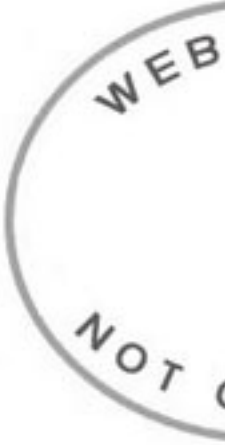
2. Petitioner superannuated while

serving as Teacher in J.D. Girls' High School,
Adalatganj, Patna, has filed this Writ Petition
assailing the order passed by the Accounts Officer
in the office of Accountant General, Bihar, Patna
bearing Pension-5-328 dated 17.06.2009,
Annexure-7, whereunder recoveries have been
made from his admissible retiral dues in the light
of non-Graduate Trained Scale allowed to him with
effect from 31.10.1983 pursuant to Memo No.

1677 dated 02.12.1985 of the District Education Officer, Nalanda, Annexure-1(i).

3. It appears aforesaid order of the Accounts Officer dated 17.06.2009 has been issued in the light of the Government instruction contained in Letter No. 600 dated 15.05.2009 which the petitioner, in my opinion, should have assailed in these proceedings along with the impugned instruction of the Accountant General dated 17.06.2009. Petitioner having not placed on record the aforesaid Letter No. 600 dated 15.05.2009, this Court is unable to adjudicate the claim of the petitioner that the financial benefits in terms of the Untrained Graduate Scale allowed to him with effect from 31.10.1983 could not be recovered after his retirement from his terminal dues. In this connection, petitioner has relied on the judgment of the Supreme Court in the case of State of Punjab and others etc. Vs. Rafique Mashih (White Washer etc.) 2015(1) PLJR 261 Supreme Court.

4. This Writ Petition is accordingly disposed of granting liberty to the petitioner to



assail the aforesaid instruction of the authorities contained in Letter No. 600 dated 15.05.2009 before the Government in the light of the case law referred to above, which representation authorities will dispose of within one month from the date of receipt of the representation annexing a copy of this order. So long the representation of the petitioner is not disposed of, the authorities will not proceed to recover in the light of the order of the Accountant General, if not already recovered.

(V.N. Sinha, J)

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