

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19854 of 2011

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Ram Pravesh Paswan S/O Late Halkhora Paswan Retired Peon, Office Of The
Anchal Adhikari, Bihta, Police Station - Bihta, District- Patna, Resident Of Village
& P.O.- Kateshar, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar

2. The Anchal Adhikari, Bihta P.S. and Anchal- Bihta, District- Patna

3. The S.D.M., Danapur, District- Patna

4. The D.M., Patna

5. The Commissioner, Patna Division, Patna

6. The District Accounts Officer, Pay Fixation Cell, Patna

7. The Accountant General (A.G.), Government Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Rama Nand Poddar, Advocate

For the State : Mr. Amar Nath Deo, SC-26

For the Accountant General : Mr. Kumar Priya Ranjan with
Ms. Gunja, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 03-12-2015

Heard learned counsel for the parties.

The major issue which remains unresolved is whether

the respondents are entitled to deduct a sum of Rs. 1,36,951/- from the post retiral dues of the petitioner on the ground that he had worked for a period more than his actual date of superannuation drawing full salary.

Learned counsel for the petitioner submits that he being an illiterate person was never intimated that he would superannuate with effect from a particular date and thus was not required to work, continued to do so and was also paid salary for the work performed by him except for the last few months. It is submitted that the authorities also took work from him and paid him for some period though for the last few months he was not given his salary. It is further submitted that in that view of the matter since there was no fraud or misrepresentation on the part of the petitioner in having continued in service and drawn salary and also the fact that he did perform his duties on the said post, no recovery can be made after his retirement from his retiral dues. In support of such proposition, learned counsel has relied upon a decision of this Court in the case of **Most. Kanti Devi v. State of Bihar** reported in **2003 (1) PLJR 247** as well as that of the Hon'ble Supreme Court in the case of **State of Punjab v. Rafiq Masih** reported in **(2015) 4 SCC 334**.

Learned counsel for the State submits that the petitioner ought to have known his date of birth and should not have

continued in service beyond attaining the age of superannuation.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned counsel for the petitioner. The Court also finds that the decisions relied upon by learned counsel for the petitioner support his case. Accordingly, recovery of Rs.1,36,951/- from the post retiral dues of the petitioner is held to be impermissible. The said is directed to be returned to the petitioner within four weeks from the date of production of a copy of this order before the respondent no. 2.

Learned counsel for the petitioner further submits that he has certain other claims also which are enumerated in his supplementary affidavit relating to payment due to him which remain unpaid.

In view of the aforesaid, the petitioner shall be entitled to make a detailed representation before the respondent no. 2 with regard to his remaining claims. If such a representation is filed within four weeks from today along with a copy of this order, the respondent no. 2 shall look into the same and pass appropriate orders within three weeks thereafter. If any amount is found payable to the petitioner, the same shall be paid to him within the next three weeks.

The writ petition stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

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