

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.278 of 2011

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Ram Pravesh Pandey, S/O Late Hardas Pandey, R/O Village-Purana Bhojpur, P.S.-
Dumraon, Distt.-Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. The Engineer-In-Chief, Pariyojana Sanyojak Nalkoop Prabhag R/O
Bishwawaraiya Bhavan, Bailey Road, Patna
3. The Chief Engineer (South), Tube Well Division, Patna
4. The Superintending Engineer, Tube Well Circle, Arrah, Bhojpur
5. The Executive Engineer, Tubewell Division, Buxar
6. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.N. Choubey, Sr. Advocate
Mr. Ambuj Nayan Chaubey, Advocate
Mr. Ashok Kumar Garg, Advocate
Mr. Akhilesh Kumar Pandey, Advocate
Mr. Yogendra Kumar Dwivedi, Advocate

For the Respondent/s : Mr. Prasoon Sinha GA-2

For Accountant General : Mr. J.P. Karn, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 27-03-2015

Heard learned counsel for the petitioner and AC to
GA-2 for the State.

2. Petitioner superannuated while serving as Tube-
well Operator in the Tube-well Division, Buxar with effect from
31.01.2010. He has filed this writ petition assailing the office order
bearing Letter No. 571 dated 10.06.2010, Annexure-1 passed by the
Executive Engineer of the said division whereunder a sum of Rs.
1,56,289/- is sought to be recovered from the petitioner on the ground
that the said amount was paid in excess during the period between

01.03.1989-31.01.2010 pursuant to his first Time Bound Promotion in the light of the Government instruction dated 23.03.1987 which has since been cancelled under letter nos. 320, 321, 322 dated 16.03.2010.

3. Petitioner having not misrepresented for obtaining the first time bound promotion which has been cancelled after his retirement, there is no justification at all to recover the aforesaid amount. In this connection, I may refer to the judgment of the Supreme Court in the case of ***State of Punjab & Ors. etc. v. Rafiq Masih (While Washer) etc. 2015(1) PLJR 261(SC)***. Accordingly, officer order bearing Letter No. 571 dated 10.06.2010, Annexure-1 is quashed with direction to the Executive Engineer, Tube-well Division, Buxar to make payment of the aforesaid amount, if already recovered, within one month from the date of receipt/ production of a copy of this order before the Executive Engineer, failing which he shall expose himself to the charge of contempt of the order of this Court.

4. This writ petition is, accordingly, allowed.

(V.N. Sinha, J.)

Rajesh/-

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