

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9658 of 2011

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Saryu Prasad Son of Late Banbari Ram Resident of Mohalla: Sahahpur,
Pokharapar, Post: Aurangabad, P.S. Auranagabad (T), District: Auragabad
(Bihar)

.... Petitioner/s

Versus

1. The Bihar State Electricity Board through its Chairman/ Secretary,
Vidyut Bhawan, Bailey Road, Patna
2. The General Manager Cum Chief Engineer Magadh Electric Supply
Region, Gaya
3. The Joint Secretary, Bihar State Electricity Board, Patna
4. The Deputy Director Of Accounts, Magadh Electric Supply Region,
Gaya
5. The Executive Electricity Engineer, Supply Division, Sasaram (Rohtas)
6. The Assistant Electrical Engineer, Electric Supply Division, Sasaram,
District: Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

4 07-08-2015

Heard learned counsel for the parties.

The present writ application seeks quashing of
the order contained in Memo No. 2036 dated 06.12.2010 by
which the respondent no. 3 has reduced the pension and
other post retiral benefits of the petitioner.

The facts of the case are that the petitioner got
increments during his service period even though he was not
entitled to the same on account of non passing of the 'Hindi
Noting and Drafting Examination'.

Learned counsel for the petitioner submits that



the petitioner did pass the 'Hindi Noting and Drafting Examination' but there is delay of only a few months. It is submitted that he should not be penalized on account of the same since there was no misrepresentation on his part. For such proposition learned counsel has also referred to and relied on a decision of a Bench of this Court dated 01.10.2001 in C.W.J.C. No. 11405 of 2001 by which a person had been granted the relief on the ground that since there was no misrepresentation such adjustment cannot be made.

Learned counsel for the respondents on the other hand has submitted that the petitioner has not been held responsible or guilty of misrepresentation but because he had got a benefit which was not due to him in accordance with the statutory requirement, the department has simply adjusted and re-fixed his salary due to which consequential post retiral benefits have also been affected resulting in there being reduction in actual payment. It is submitted that such action has been held to be permissible by a Full Bench of this Court in the case of **Ram Binod Singh v. Bihar State Electricity Board (F.B.)** reported in **2007 (3) PLJR 398** and which has also been followed by a recent judgment of a co-ordinate Bench of this Court in C.W.J.C. No. 7029 of 2011 dated 17.10.2014.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties,

this Court finds substance in the submissions of learned counsel for the respondents and is in agreement with the view taken by the Full Bench of this Court in the case of **Ram Binod Singh** (supra).

In view of the aforesaid, this Court does not find any infirmity in the order impugned. Accordingly, the application stands dismissed. However, if anything remains due to be paid to the petitioner pursuant to the order of revision, the authorities are obliged to clear the same within eight weeks from the date of production of a copy of this order upon respondent no. 5.

(Ahsanuddin Amanullah, J.)

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