

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20796 of 2011

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Md.Muslim, son of Late Md. Arash resident of village- Jamunia, Post Office-
Gobrafra, P.S.-Satti, District-West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Collector, West Champaran, Bettiah.
3. The District Education Officer, West Champaran, Bettiah.
4. The District Programme Officer (Establishment), West Champaran, Bettiah.
5. The Accountant General, Bihar, Patna.
6. The District Treasury Officer, West Champaran, Bettiah.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Irshad, Adv.
For the State	:	Mr. Ram Subhas Singh, Adv.
For the Accountant General	:	Mr. Amar Nath Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 04-12-2015

Heard learned counsel for the parties.

The present writ application has been filed for quashing of the order dated 14.07.2007 passed by the respondent no. 3 by which an amount of Rs. 1,26,526/- has been deducted from the gratuity amount of the petitioner.

Learned counsel for the petitioner submits that he superannuated from the post of Assistant Teacher on 30.04.2005 and when it came to payment of his post retiral dues, the impugned order has been passed for deduction which is arbitrary and harsh. It is submitted that the ostensible reason is of having been granted increment, which was not due to him, leading to so called excess payment but neither due to any misrepresentation

or fraud on his part and he was also not in any way involved in his pay fixation or payment of salary and thus after having retired, such order cannot be passed and that too without adhering to the basic principles of natural justice as admittedly no notice or show cause was given to the petitioner prior to such deduction.

Learned counsel for the State submits that such discrepancy was detected only by the Accountant General when the service book of the petitioner was forwarded for determining the pensionary benefits. However, he is not in a position to controvert the fact that there was no misrepresentation or fraud on the part of the petitioner or he was involved in any way in fixation of his pay or payment of salary and other emoluments and further with regard to no show cause or notice being given to him.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court has no hesitation to hold that such action of the respondents is totally arbitrary and also iniquitous. Further, the issue is covered by a decision of the Court in the case of **Daya Nand Pandit vs. State of Bihar** reported in **2015(2) PLJR 823** as well as in the case of **Kishor Prasad vs. State of Bihar** reported in **2012(2) PLJR 12** as also that of the Hon'ble Supreme Court in the case of **State of Punjab v. Rafiq Masih** reported in **(2015)4 SCC 334**.

Accordingly, the impugned order dated 14.07.2007 passed by respondent no. 3 deducting Rs. 1,26,526/- from the gratuity amount of the petitioner is quashed. The same shall be paid to him within three weeks from the date of production of a copy of this order before the respondent no. 3.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/-

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