

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13645 of 2015

Manan Prasad Sharma S/o Late Ram Prasad Sharma R/o Village + P.O. Akbarpur,
P.S. Paliganj, District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary, Minor Irrigation Department, Government of Bihar, Patna
3. Deputy Secretary, Minor Irrigation Department, Government of Bihar, Patna
4. Chief Engineer, Water Resources Department (Minor), Patna
5. Executive Engineer, Tube Well Division, Patna Division, Patna
6. Executive Engineer, Minor Irrigation Division, Patna
7. Treasury Officer, Patna Collector, Treasury, Patna 800001
8. Accountant General, A & E, Mahalekhakar Bhavan, Veerchandra Patel Path,
Patna 800001.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Minakshi Singh, Adv.
For the State : S.C.-8
For the Accountant General : Mr. Madhuresh Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-10-2015

Heard learned counsel for the parties.

Pursuant to order dated 08.10.2015, the respondent no. 6 is present in Court. A supplementary counter affidavit has also been filed on his behalf on 14th October, 2015. In view of the unqualified and unconditional apology tendered by him, the Court would not like to proceed against him any further.

It is agreed at the Bar that all admissible retiral dues of the petitioner have been paid except for Rs. 1,41,577/- which has been adjusted on the ground that he had been wrongly granted the benefit of additional 12% of pay on the basis of first time bond promotion granted with effect from 04.07.1989.



Learned counsel for the petitioner submits that the petitioner having superannuated from the post of Pump Operator i.e., a grade IV post, having no role whatsoever in either fixation of his pay and emoluments or in actually taking payment, at this late stage of his life having been subjected to such huge recovery is impermissible. Learned counsel has relied on a decision of the Hon'ble Supreme Court in the case of **State of Punjab v. Rafiq Masih** reported in **(2015)4 SCC 334**, which has held that such recovery is not permissible.

Learned counsel for the State submits that once the error was detected, the respondents have only corrected the same and the excess amount which has been drawn by the petitioner has been sought to be recovered.

Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find such stand of the respondents to be justified. Moreover, the petitioner having no role and there being no fault, misrepresentation or fraud on his part in him getting any benefit, which he may not be strictly entitled to in law, sought to be recovered only in the year 2015, after him having superannuated in the year 2011, and that too relating to the year 1989, would definitely be harsh for the petitioner and is clearly iniquitous. The Court further finds that the decision relied upon by learned counsel for the petitioner in support of such contention covers the case of the petitioner.

Accordingly, the order for recovery of Rs. 1,41,577/- from the petitioner stands quashed. The respondent no. 6 shall ensure that the amount is credited into the account of the petitioner within three weeks from today.

The writ petition stands disposed off in the aforementioned terms.

The appearance of the respondent no. 6 stands dispensed with.

(Ahsanuddin Amanullah, J)

P. Kumar/-

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