

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2502 of 2011

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Ravindra Kumar Arora Son Of Late Mela Ram Resident Of In The House Of Late
Bhubneshwar Yadav, Mohalla - Pahalwan Gali, Bakarganj, P.S. Gandhi Maidan,
District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Home(Special) Department,
Government Of Bihar, Patna
2. The Commandant General, Bihar Home Guards, Headquarters, Chhajubagh ,
Patna 800001
3. The Additional Commandant General, Bihar Home Guards, Headquarters,
Chhajubagh , Patna 800001
4. The Deputy Commandant General Bihar Home Guards, Headquarters,
Chhajubagh , Patna 800001
5. The Commandant Bihar Home Guards, Headquarters, Chhajubagh , Patna
800001

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar

For the Respondent/s : AC to AAG 14

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 08-12-2015

Heard Sri Lalan Kumar, learned counsel for the petitioner
and learned AC to AAG No. 14.

The petitioner, who retired in the year 2004 as Company
Commander from Bihar Home Guards, has approached this court
invoking its writ jurisdiction in the year 2011 only, with a prayer to
direct the respondents to return the recovered amount, which was
recovered from the salary in installments by order which was passed
long back on 3.8.1994. The petitioner has prayed that he may be
granted relief in view of the order dated 30.3.2005 passed in



C.W.J.C. No. 13903 of 2003. The petitioner's case is that he was earlier in the service of B.C.C.L., Dhanbad and subsequently, the period spent by the petitioner in B.C.C.L., Dhanbad was counted and salary was re-fixed in that view of the matter. Subsequently, the respondents decided to cancel the order of re-fixation and directed for recovery of the excess paid amount to the petitioner by its order dated 3.8.1994 vide Annexure - '1' to the writ petition. He submits that in similar manner in the case of one Sri Rabindra Nath Tiwary also the salary fixed was cancelled and direction was given to recover the excess paid amount. However, this court in CWJC No. 13903 of 2003 had quashed the order to the extent of the recovery part. Accordingly, a prayer has been made that similar order may be passed in the present case.

Learned State Counsel opposing the prayer of the petitioner has referred to the averments made in the counter affidavit particularly paragraph no. 6 of the counter affidavit, wherein it has been indicated that even prior to passing of the order in C.W.J.C. No. 13903 of 2003 on 30.3.2005 the excess paid amount to the petitioner had already been recovered.

It is not in dispute that petitioner retired in the year 2004. However, even till the date of retirement, he did not raise any issue regarding recovery, whereas recovery was effected in view of the

order which was passed vide Annexure - '1' in the year 1994. The court is of the considered opinion that the petitioner himself slumbered over his right for a long period. Moreover, this court earlier in the year 2005 had not even interfered with the order whereby pay scale of similarly situated persons was reduced.

Keeping in view the fact that recovery has been effected in view of the order dated 3.8.1994 which was never challenged earlier nor even in the present writ petition has been challenged, the court is of the opinion that no favourable order can be passed.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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