

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17852 of 2010

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Chhedi Lal Poddar, S/o Late Chotelal Poddar, R/o Vill.- Jairampur, P.O.-
Dharampur Ratti, P.S.- Bihpur, Distt.- Bhagalpur, At Present Address- Kutubganj,
P.O.- Mirjanihat, P.S.- Mojahidpur, Distt.- Bhagalpur

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development
Department, Government of Bihar, Patna
2. The Accountant General, Bihar, Patna
3. The Director, Secondary Education, Government of Bihar, Patna
4. The District Education Officer, Munger
5. The Treasury Officer, Munger

.... Respondents

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Appearance :

For the Petitioner : Smt. Pravina Kumari, Adv.
For the Respondents : Shri Rakesh Kr. Singh, Adv.
Shri Vivekanand Kumar, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 21-01-2015

The petitioner was appointed as a teacher in a private educational institution on 2.1.1971. Later on, the institution was recognized by the Government and from then onwards the salary and other emoluments were being paid to the teachers by the Government itself. The petitioner was extended the benefit of time bound promotion on 1.3.1981 and he retired from service on 30.11.2008.

Through an order dated 18.6.2009, the office of the Accountant General, the 2nd respondent herein,



informed that the petitioner was not entitled to be extended the benefit of time bound promotion on 1.3.1981, and on account of such wrong promotion he was paid a sum of Rs.2,75,879/- in excess and, unless the said amount is refunded, it would not be possible to process his pension papers. On the same lines the Head Master of the School issued the proceedings. In his anxiety to get pension papers processed, the petitioner remitted the amount.

This writ petition is filed with a prayer to direct the respondents to refund the amount recovered from the petitioner. Reliance is placed on an order of this Court dated 26.4.2010 passed in C.W.J.C. No.14500/09.

Heard Smt. Pravina Kumari, learned counsel for the petitioner, and Shri Rakesh Kumar, learned counsel for the State.

Till the petitioner retired on 30.11.2008, no objection, whatsoever, was raised as regards the quantum of his emoluments. It was nearly one year after his retirement that an objection was raised as to his entitlement to be extended the benefit of time bound promotion.

It is true that the respondents cited grounds such as: that the institution was recognized only on



27.9.1973; the petitioner acquired certain qualifications on 12.10.1977; and that he was entitled to be promoted only in 1989. All the same, the respondents do not allege that the petitioner made any misrepresentation at any point of time. The 1st time bound promotion was extended to him by the respondents themselves after verification of the record. Assuming that any inadvertent mistake crept into the proceedings, the petitioner cannot be penalized for the same; that too, after more than a quarter of a century. In a way, the respondents propose to review an order passed on 1.3.1981. It is just impermissible to undertake such review after lapse of 28 years.

Similar case was dealt with by this Court in C.W.J.C. No.14500/09, wherein it was held that as long as the so called excess payment was not on the basis of any misrepresentation or fraud, the respondents cannot effect recovery of the amount.

Viewed from any angle, this Court does not find any basis for the respondents to effect the recovery. Therefore, the writ petition is allowed and the respondents are directed to refund the amount or Rs.2,75,879/-. The refund shall be made within a period of two months from today. In default, the amount shall carry interest at the rate

of 6% from the date on which the petitioner remitted it, till the date of payment to him.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

K.C.jha/-
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