

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3333 of 2015

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Mahanand Thakur S/o Late Jagdish Thakur, R/o- Shanti Nagar, Chunapur Road,
P.O.- Madhubani, P.S.- K. Hat, District- Purnia

.... Petitioner/s

Versus

1. The State of Bihar, the Secretary cum Commissioner, Road Construction Department, National High Way (Mechanical) division, Bishweswaraiya Bhawan Bailey Road, Patna- 800001
2. Executive Engineer National High Way, Mechanical Division, Dehri-on-Sone, Rohtas
3. Chief Engineer, Road Construction Department, Bishweswaraiya Bhawan Bailey Road, Patna- 800001
4. Superintending Engineer, National High Way Mechanical Department, Punaichak, Patna
5. District Accounts Officer, Patna, PS & District Patna
6. Accountant General (A & E), Bihar, Bir Chand Patel Path, Patna 800001
7. The Treasury Officer, Purnia, PS K. Hat, District- Purnia

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhav Roy

For the Respondent/s : Mr. AAG15- YOGENDRA PD. SINHA

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-05-2015

18.05.2015

Heard learned counsel for the parties.

The predicament of the petitioner is his own creation. The Court has occasion to say this because petitioner retired from the post of Assistant way back on 31.01.2004. His pension payment order was also issued on 23.04.2004. But after a couple of years, the greed of the petitioner to earn a few dollars more has done him in.

Petitioner approached the respondent- authorities for grant of benefit of A.C.P. after the scheme

was notified in the year 2003, though applicable from the year 1999. Claim of the petitioner was examined and on examination of his service-book and history, it transpires that he had never passed hindi noting and drafting examination which was a must. Despite the said failure on the part of the petitioner to do so he continued to derive benefit of time-bound-promotions and increment between the year 1982 and 1997.

As per Annexure-2, objection was raised that the service-book of the petitioner does not reflect passing of the hindi noting and drafting examination and despite that annual increment was granted. On that objection, Annexure-3 came to be passed where the authorities decided to take away the component of increment, re-fixed his salary and thereafter, naturally, corresponding reduction or adjustment in pension was required to be made.

Petitioner does not deny the fact that he has never passed the hindi noting and drafting examination. The obligation to do so was there. If it is so, then the objection of the respondents that he was not entitled to the increment in the very first place cannot be said to be misplaced.

Petitioner being a government servant is



required to know the circulars and the obligation created therein but right through his service he did not pass the hindi noting and drafting examination, therefore, the decisions which are under challenge came to be passed.

This Court does not find anything objectionable with the decision, so far as taking away the component of increment is concerned, especially when the facts are not in dispute. But the Court may interfere with the decision to recover the money after so many years of retirement, because such a decision would be rather harsh and may be inequitable at a late hour of the petitioner's life and after almost a decade of his retirement. The Court, therefore, will not pass any order in favour of the petitioner interfering with the decision to take away the component of increment from his salary but respondents will not be entitled to effect any recovery against the petitioner at this belated hour and if it has been done it should be refunded forthwith.

Writ application, therefore, is allowed limited to the extent indicated above.

(Ajay Kumar Tripathi, J.)

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