

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9448 of 2014

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Md. Idris Son of Late Md. Shekh Adalat resident of village - Belahiram, P.O. Mirjapur, P.S. Patahi, District - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Health, Government of Bihar, New Secretariat, Patna - 1
2. The Director, Health Department, Government of Bihar, New Secretariat, Patna
3. The Civil Surgeon - cum - Chief Medical Officer, Motihari, P.O. Motihari, District East Champaran
4. The In-charge Medical Officer, Primary Health Centre, Pakaridayal, P.O. + P.S. Pakaridyal, District - East Champaran
5. The In-charge Medical Officer, Extra Primary Health Centre Deokuliya, P.O. + P.S. Phenhara, District - East Champaran
6. The Accountant General, Bihar, Veerchand Patel Path, Patna - 1, District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyama Kant Singh, Adv.
For the State : Mr. R.K. Chandra, AC to G.P. 19.
For the A.G : Mr. Prabhat Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
Date: 08-08-2016

The petitioner retired as Dresser with effect from 31.07.2002. It appears from the pleadings on record that after filing of this application, petitioner has been paid his post retrial dues. He was entitled for assured career progression while he was in service, which too has been granted. From pleading on record, it appears that on the ground of wrong fixation of petitioner's pay, an amount of Rs. 70,723/- has been adjusted from the amount which the petitioner was entitled on grant of assured career progression and gratuity.

Learned counsel for the petitioner has submitted that at no point of time petitioner was given any opportunity to explain against

adjustment/recovery of the amount said to have been paid in excess to him because of wrong fixation of pay. He has accordingly, submitted that such adjustment of the recovery is in breach of principles of natural justice. It has also been submitted that there is no material on record to show that there was any misrepresentation of fraud committed by the petitioner leading to the so called wrong fixation of pay. He has also submitted that the petitioner would suffer hardship if the said amount is allowed to be adjusted or recovered after more than a decade of his superannuation.

I find substance in the submission advanced on behalf of the petitioner. There is no material on record to suggest that petitioner was ever given any opportunity to explain against the adjustment of the recovery sought to be made from his legal dues. It is accordingly, hold that adjustment of the recovery of the said amount of Rs. 70,723/- is illegal and cannot be sustained. The respondents are directed to pay the amount if any, which has been adjusted/recovered from his legal entitlement, within one month from the date of receipt/production of a copy of this order.

The application stands disposed of.

(Chakradhari Sharan Singh, J)

Prakash/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	
Transmission Date	