

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13006 of 2013

=====

Gopal Jha S/o Late Jaideo Jha, resident of village - Vijay Nagar, P.O. Vijay Nagar,
P.S.- Banka, District- Banka. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar State.
 2. Bihar Police Building Construction Corporation, Patna. B.M.P.-5, Campus,
Patna. through Respondent No. 2.
 3. Chairman-cum-Managing Director, Bihar Police Building Construction
Corporation, B.M.P.- 5, Campus, Patna.
 4. Chief Engineer, Bihar Police Building Construction Corporation, B.M.P.- 5,
Campus, Patna.
 5. Superintending Engineer, Bihar Police Building Construction Corporation,
B.M.P.- 5, Campus, Patna.
 6. Executive Engineer, Bhagalpur Division of Bihar Police Construction
Corporation. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Srivastava

For the Respondent/s : Mr. S.S. Shabbar Hussain

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-10-2016

Heard learned counsel for the petitioner and learned
counsel for the Bihar Police Building Construction.

In this case, the petitioner is challenging the letter no.
1245 containing order dated 10th May 2013 whereby Rs. 29,700/-,
which is the price of 50 C.I. pipes, has been recovered/deducted
proportionately from the retiral dues of the petitioner.

The matter relates to missing of 50 pipes from the Store
which is situated at Munger.

The petitioner at the relevant time, was posted as Store
Incharge, having his Head Office at Bhagalpur. He has



superannuated from service on 31st August 2010 and after his superannuation, he handed over the charge and in course of handing and taking over the charge, 50 CI Pipes were found missing, for that, he has already lodged the first information report, but in the first information report, nothing has been mentioned about the use of the pipes by the Police official sinking tube well in Dharara infested with the maoist activity.

An application dated 27.06.2011 was written by the petitioner to the Executive Engineer, Bihar Police Building Construction Corporation, Bhagalpur Division there he mentioned that when he had gone for lodging the first information report, he was informed by the Police official that the said 50 pipes were used in naxalite affected area for sinking tube well.

The counsel for the Bihar Police Building Construction Corporation has drawn attention of this Court to the paragraph 16 where the petitioner has specifically mentioned that he could know about the missing of pipes as was informed by Saryug Prasad Yadav who was Chowkidar at the relevant time whereas in the application, a different story has been mentioned, having said and both are not coherent but one fact is emerging which has been mentioned in both the places that at the instance of the Superintendent of Police, the said 50 CI Pipes have been consumed.

If that be so, the petitioner cannot be held responsible for the missing of pipes and from his retiral dues no deduction can be made but if the story is wrong, the action of the Corporation cannot be held to be illegal.

Unless there will be a fact finding by the competent authority, the real fact will not come to the light, in such circumstances, this Court is of the view that an enquiry should be conducted in this matter.

This Court directs, the I.G. of Police, Munger will hold an enquiry and find out as to whether 50 CI Pipes were used on the direction of the Superintendent of Police, Munger or it otherwise. If the finding comes in favour of the petitioner, the respondent authority will be obliged to return the deducted amount along with the statutory interest, but if the finding comes otherwise, there is no question of return of the amount. While holding enquiry, the I.G. of Police, Munger will be obliged to give fair opportunity of hearing to both the parties and pass a reasoned order in accordance with law.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

Maresh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22/10/2016
Transmission Date	