

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6474 of 2014

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Nandjee Mehta, son of Late Ram Naresh Singh, resident of Village and P.O. Kastar Mahadeo, Police Station Bikramganj, District Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Old Secretariat, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector-cum-District Magistrate-cum-Disciplinary Authority, Bhojpur, Ara.
4. The Additional Collector, (Land Reforms), Bhojpur, Ara.
5. The Sub-Divisional Officer, Sadar-Cum-Enquiry Officer, Ara.
6. The Circle Officer-Cum-Presenting Officer, Udwant Nagar, District Bhojpur, Ara.
7. The Accountant General (P & E), Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Aditya Narain Singh, Advocate
Mr. Kundan Kumar Sinha, Advocate

For the Respondents-State : Mr. Amit Bhushan, A.C. to G.P.-17

For the Accountant General : Mr. Satyendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 08-09-2016

The challenge in the present writ application is to an order dated 25th of January, 2014 whereby the entire pension has been ordered to be forfeited for life including the amount of gratuity, earned leave, subsistence allowance during the period of suspension and other

retiral due.

2. A perusal of the order shows that the petitioner is facing a trial for the offences under Sections 7, 13 (2) read with Section 13(1) of the Prevention of Corruption Act, 1988 for accepting illegal gratification of Rs.3,500/-. In a separate departmental enquiry on similar allegation, the enquiry officer found the petitioner guilty. The disciplinary authority passed an order forfeiting the entire pension for life, including the amount of gratuity, earned leave, subsistence allowance during the period of suspension and other amount due.

3. I find that the forfeiture of retiral benefits such as leave encashment, gratuity, entire pension and that too for life is highly disproportionate to the misconduct proved. The forfeiture of all the retiral benefits, which are result of past service rendered by the petitioner, should not be ordered to be withheld on account of misconduct. The punishment imposed is highly disproportionate to the misconduct proved.

4. I find that the punishment imposed is harsh and unreasonable, therefore, the punishment is set aside with liberty to the Collector, Bhojpur, Ara to pass a fresh order of punishment after considering the gravity of charges, but keeping in view the fact that the petitioner has rendered substantial service to the State and the fact that the pension and the retiral benefits is not bounty but result of service

rendered for the State. The Collector shall pass a necessary order within three months from the date a copy of the order is supplied to him.

With the said observation and direction, the writ application stands allowed.

(Hemant Gupta, J.)

Sunil

AFR/NAFR	A.F.R.
CAV DATE	N. A.
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