

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20471 of 2012

=====

Tarkeshwar Thakur S/O Late Mukti Nath Thakur R/O Village- Jajuar, Police Station- Katara, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Rural Development Department, Govt. of Bihar, Patna
3. The Collector, Sitamarhi
4. The Sub. Divisional Officer, Sitamarhi, Sadar, Sitamarhi
5. The Circle Officer, Dumra Anchal, District- Sitamarhi

.... Respondents

=====

Appearance:

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate.
For the State : Mr. S. D. Yadav, AAG-IX.
For the Respondent/s: Mr. Roy Shivaji Nath, AAG-3

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL JUDGMENT

Date: 20-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is deduction of Rs. 1,06,363/- from the General Provident Fund amount paid to the petitioner on 08.10.2005 for the reason that the vouchers for the expenses were destroyed in the sudden flood in the entire area of Sitamarhi in the night of 09.07.2004.

3. The petitioner was working as Nazir in the office of Circle Officer, Dumara, Sitamarhi. In the sudden flood in the night of 09.07.2004, the entire office of the Block got submerged by five feet of the flood water.

4. The petitioner attained the age of superannuation on

31.01.2005 but since he could not account for the vouchers of Rs. 1,06,363.07, the said amount was deducted from the General Provident Fund amount which was due and payable to the petitioner.

5. Perusal of the counter affidavit shows that the total amount spent by the petitioner was Rs. 4,83,376.83 out of which the petitioner produced vouchers for the sum of Rs. 3,77,013.76 and that he could not produce vouchers for some of Rs. 1,06,363.07.

6. The officer who has taken charge from the petitioner has given in writing which is appended as part of Annexure-A that the vouchers are in bad condition and from some vouchers, the signatures smudged and wherever the signatures are available, the word "*passed for*" stands smudged.

7. Since there was flood just before the retirement of the petitioner, therefore for an act of God, the petitioner cannot be made responsible for not accounting for the vouchers of the sum of Rs. 1,06,363.07. In the sudden flood, the office got submerged which would have destroyed the vouchers. For such action, the petitioner cannot be made responsible for the non-furnishing of the vouchers. Still the recovery from his General Provident Fund amount is unfair which has been affected without giving any notice or opportunity of hearing.

8. In the circumstances, when the vouchers got

destroyed, it was incumbent on the department to rely upon the additional documents, if any, to support the expenses. Merely because the petitioner could not account for sum of Rs. 1,06,363.07 on account of flood in the area, the petitioner cannot be made responsible.

9. Considering the above facts, the present writ application is allowed and the respondents are directed to pay sum of Rs. 1,06,363.07 within a period of two months.

(Hemant Gupta, J.)

Mishra/-

U			
---	--	--	--