

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22353 of 2011

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Shambhoo Prasad Chaurasia S/O Late Bechan Raut @ Late Bechan Chaurasia
Resident Of Village- Sirsia Bazar, P.S- Bela, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State Of Bihar through The Principal Secretary, Rural Development Department, Govt. Of Bihar, Patna -1
2. The Director, Rural Development Department, Govt. Of Bihar, Patna -1
3. The Collector, Sitamarhi.
4. The Sub Divisional Officer, Sadar, Sitamarhi.
5. The Block Development Officer, Barirginia Block, District- Sitamarhi.
6. The District Provident Fund Officer, Sitamarhi.
7. The Treasury Officer, Sitamarhi.
8. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 11-01-2016

Heard learned counsel for the parties.

Pursuant to order dated 22.12.2015, all the persons, who



had held the post of Block Development Officer, Bairginia from September, 2006 to April, 2009 are present in Court and file their respective counter affidavits. It appears that Mr. Anuj Kumar was posted from 28.07.2006 till 02.08.2007 and thereafter Mr. Mirza Arif Raza from 02.08.2007 till 04.03.2008 followed by Mr. Manoj Kumar from 04.03.2008 to 02.03.2009 whereafter Mr. Pankaj Kumar Gupta from 02.03.2009 to 04.04.2010.

The Court had called all the officers since Mr. Pankaj Kumar Gupta, the then Block Development Officer, Bairginia had directed the petitioner to deposit an amount of Rs. 19782/- on account of him having remained in unauthorised occupation of Government accommodation from September, 2006 to April, 2009 and also for having wrongly charged house rent allowance. The other three incumbents, during the relevant period, have stated in their counter affidavits and also orally before the Court that the petitioner used to come to Bairginia by train daily and neither had he occupied Government accommodation nor any complaint to this effect was made before them.

From the counter affidavit filed by Mr. Pankaj Kumar Gupta, it transpires that there was only statement that he came to know that the petitioner was in illegal occupation but when asked as to who had made the complaint or what enquiry he had conducted, he

says that nothing was done.

Learned State Counsel has also submitted that from the records, there is no evidence of any complaint or enquiry by any officer to indicate that the petitioner was occupying any Government accommodation without its allotment.

In view of the admitted position, the Court does not find any fault on the part of Mr. Anuj Kumar, Mr. Mirza Arif Raza and Mr. Manoj Kumar, the then Block Development Officers, Bairginia and accordingly, the matter against them stands consigned.

Mr. Pankaj Kumar Gupta, the then Block Development Officer, Bairginia has also filed show cause in which he has admitted the mistake but has taken the stand that it was *bona fide* as he had not put it in the record though there was complaint by the local people. With regard to such conduct, he has tendered unconditional and unqualified apology.

For the reasons aforesaid, the Court accepts such apology and does not propose to proceed against him in the matter. However, he is cautioned to be careful in future.

The petitioner has moved the Court for payment of his post retiral dues in the revised pay-scale along with G.P.F.

Learned counsel for the petitioner submits that though he has been paid his admitted dues but an amount of Rs. 19046/- has

been withheld on the ground that he was in unauthorized possession of government accommodation from September, 2006 to April, 2009.

In view of the aforesaid, the action by Mr. Pankaj Kumar Gupta, the then Block Development Officer, Bairginia is clearly arbitrary and unreasonable and cannot be sustained. Accordingly, the action taken against the petitioner of deduction of Rs. 19046/- from his gratuity on the aforesaid ground is set aside. The petitioner is held entitled to full payment.

Accordingly, the writ petition stands disposed off with a direction to the respondent no. 5, who is also present in Court, to ensure that the deducted amount of Rs. 19046/- is credited in the account of the petitioner within two weeks from today.

Learned counsel for the petitioner submits that initially there was some discrepancy in the amount of G.P.F. and upon objection, a further amount of Rs. 17822/- has been found payable and corrected advise has also been sent by the Circle Officer, Parihar to the respondent no. 5.

If that be so, the respondent no. 5 shall get the matter verified and if there is any further payment to be made, the same shall also be paid, within four weeks from today. The petitioner shall disclose the account number in which the amount shall be deposited to the respondent no. 5 within one week from today along with a copy of

this order.

It is needless to say that upon such verification, if any amount is found payable, the same shall be paid with the statutory interest.

(Ahsanuddin Amanullah, J)

Anjani/-

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