

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1630 of 2015

Sachchidanand Sinha S/O Late Brahmdeo Lal, resident of Road No. 2A, Bishwanath Path, Postal Park, P.S.- Jakkanpur, District & Town-Patna.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Road Construction Department, Bihar, Patna.
2. The Engineer-in-Chief-cum-Additional commissioner-cum-Special Secretary, Road Construction Department, Bihar, Patna.
3. The Deputy Development commissioner, Patna.
4. The Executive Engineer, Rural Development, Special Division-1, Patna.
5. The Block Development Officer, Ghosbari, District- Patna.
6. The Accountant General, Bihar, Patna.

.... Respondents

Appearance :

For the Petitioner : Mr. Suneil Kumar Thakur, Advocate
For the Respondents : Mr. Uday Shankar Sharan Singh, Advocate, G.P.10
For the Accountant General: Mr. Arun Kumar Arun, Advocate

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 17-09-2016

The sole question that arises in the present case is, whether merely because a First Information Report has been lodged with regard to defalcation of money, after the employee has superannuated, can retiral dues be withheld? Court has put this question directly from the State to answer all. State has answered that the petitioner, while in service, was first posted at Mokama and then at Ghosbari, which is within the Barh



Subdivision. At both places petitioner has received substantial amount of money to be spent on certain schemes but, till his retirement, he submitted no accounts and therefore, those amounts are outstanding. It was discovered after his superannuation that he had defalcated these amounts and, accordingly, F.I.R. was lodged. It is to recover that amount that payments have been withheld. The question is, whether the statutory authority to do so, either he ought to have been a departmental disciplinary proceedings in which orders could be passed attaching retiral dues for recovery of money due to the government, or there must be some statutory rule accordingly, to which, upon criminal case being lodged, payment of retiral dues would automatically stand suspended.

In my view, merely lodging the First Information Report does not clothe the authorities with power to suspend or withdraw or withheld payment of retiral dues of the petitioner. The consequence would be that the respondents are directed to immediately release the entire retiral dues to the petitioner, subject to petitioner producing no dues certificate from the

departments he had worked.

With these observation and direction, this application stands disposed of.

(Navaniti Prasad Singh, J.)

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