

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5019 of 2008

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Ram Chandra Ram, S/o Late Mahadeo Ram, resident of village- Manpur, PS
Chanan (Itaun) District Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Jamui
2. The District Magistrate, Jamui
3. The District Panchayat Raj Officer, Jamui
4. The Block Development Officer, Sikandra, District Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjiv Kumar
Mr. L.P.K. Rajgrihar

For the Respondent/s : Mr. (SC6)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 08-02-2017

Heard both sides.

2. The petitioner seeks quashing of the order, as contained in memo No. 394 dated 25.09.1998 (Annexure-5), by which the District Magistrate, Jamui directed to recover Rs. 2959.30/-with 12½ % interest from the petitioner and further punishment of censure was inflicted upon the petitioner and that he shall not get any salary and other allowances, save and except subsistence allowance, during the period of his suspension.

3. The petitioner was working as Panchayat Sevak in Sikandra block of district, Jamui. The petitioner was suspended in the month of June, 1996 but the petitioner superannuated on 31.12.1997 and even after retirement no retiral dues was paid to the petitioner.



Thereafter, the petitioner filed CWJC No. 11642 of 2002, which was disposed of on 09.09.2004, and petitioner was directed to submit representation for payment of interest on the retiral dues, if any, which remained to be paid.

4. It appears that although memo No. 394 dated 25.09.1998 was issued in the year 1998 but the petitioner did not bring this fact to the notice of this court in the earlier writ petition, i.e., CWJC No. 11642 of 2002.

5. The learned counsel for the petitioner submits that the order inflicting punishment and recovery of money is passed without hearing the petitioner. No notice was ever issued to the petitioner for recovery of the aforesaid amount nor any departmental proceeding was held. The order inflicting punishment was passed after many months from the date of retirement of the petitioner. Even the State did not state any fact in its counter affidavit showing that any departmental enquiry was held or after superannuation any proceeding under Rule 43(b) of Bihar Pension Rules was initiated.

6. It appears that punishment order, as contained in memo No. 394, is passed without holding any departmental enquiry and the salary of the petitioner was also withheld without having any departmental enquiry, during the period of suspension. The impugned order is, therefore, not sustainable and the same is set aside.



7. The writ petition is, accordingly, allowed.

The authority concerned, i.e. the District Magistrate, Jamui is directed to pay salary and other retiral dues, if any, of the petitioner within a period of four months from the date of receipt/production of a copy of this order.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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