IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3349 of 2016

==

Pashupati Paswan son of Late Surya Narayan Paswan, Resident of Village- Khairatar, P.O.+P.S.- Chautham, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Bhagalpur Division, Bhagalpur.
4. The Superintendent of Police, Bhagalpur.
5. The Commandant Bihar Police, Bhagalpur Police Line, Bhagalpur.
6. The District Provident Fund Officer, Bhagalpur.
7. The Accountant General Bihar, Birchand Patel Path, Patna.

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Pravina Kumari
For the State : Mr. Khurshid Alam,AAG-12
For Accountant General : Mr. Bindhyachal Rai

==

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

4 06-10-2017 Heard learned counsel for the petitioner, State and the counsel appearing on behalf of the Accountant General.

Counsel for the petitioner submits that the respondents have arbitrarily and illegally deducted Rs. 11 laks and odd from the post-retiral dues of the petitioner on the pretext that petitioner has continued in service beyond the age of superannuation.

During the pendency of the writ application, it appears that the respondents have refunded the deducted amount of Rs. 9 lakhs and odd out of Rs. 11 lakhs and odd deducted from the post-retiral dues.

From Annexure-6, it appear that the amount of Rs. 1,32,149/- has not been returned to the petitioner as yet. Thus, the present writ application is confined to the grievance of the petitioner with regard to the non-refund of the amount of Rs. 1,32,149/- and odd.

The petitioner was made to retire under the orders of the Superior Officer in the police department. He cannot be fasten with the accountability on account of lapse of the officer who allowed him to continue beyond the age of superannuation. The petitioner has received salary for the duty performed, if he was allowed to continue beyond the age of superannuation, the officers with whom he was working were responsible for allowing him to continue in service beyond the age of superannuation. As the petitioner has worked on the post due to lapse of respondent authorities he cannot be held disentitled for the salary for the period after attaining age of superannuation and the respondents cannot be permitted to make deduction out of the pensionary benefit.

Under such circumstances, the respondents are not justified in either deducting or withholding the amount as the petitioner admittedly worked on the post. During the pendency of the writ petition respondents have refunded the amount of Rs. 9 lakhs and odd and only Rs. 1,32,149/- and odd is withheld which was deducted from the pension of the petitioner.

Accordingly, the writ petition is disposed of with a direction to respondent nos. 2 and 7 to see that amount of Rs. 1,32,149/- deducted from the pension of the petitioner is returned within a period of two months from the date of production of the order of this court. If the deducted amount of Rs. 1,32,149/- is not returned within the aforesaid period, the respondents shall be obliged to pay interest at the rate of 9 per cent per annum from the date the said amount was deducted from the pension till the date of actual payment and such payment of interest shall be paid from the pockets of the officer concerned.

With the aforesaid observation, the application stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

U			