

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.245 of 2014

In

Civil Writ Jurisdiction Case No. 12460 of 2007

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1. Braj Behari Tiwary S/o Late Indradeo Tiwary, Resident of village-
Chandwa, P.S. - Ara Nawada, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat Building, Patna.
2. The Industrial Development Commissioner , New Secretariat Building, Patna.
3. The Bihar State Electronic Development Corporation Ltd. through its Managing Director, Beltron Bhawan.
4. The Managing Director, Bihar State Electric Development Corporation, Shastrinagar, Patna.
4. The Bureau of Public Enterprises through its Chairman, Old Secretariat Building, Patna.

.... Respondent/s

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Appearance :

For the Petitioner	: Mr. A.B. Ojha, Sr. Advocate. Mr. Nitesh Kumar, Advocate.
For the Beltron	: Mr. Girijesh Kumar, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER**

4 16-08-2017

Heard both sides.

C.W.J.C. No. 12460 of 2007 was heard along with
C.W.J.C. No. 7800 of 2007. Shri A.B. Ojha, learned senior
counsel for the petitioner filed this review petition and submitted
that the petitioner was firstly posted in corporation on deputation
and later on he was absorbed. The corporation fixed the salary of
the petitioner after his absorption in the corporation. It is not the



fault of the petitioner rather on the fault of the accounts office of the corporation, the petitioner got excess salary therefore, the excess amount received by the petitioner should not have been recovered. Shri Ojha, learned senior counsel in support of his contention placed his reliance on a judgment of Supreme Court rendered in case of *State of Punjab vs. Rafiq Masih (White Washer)* reported in **2015 (4) SCC 334** but, I find no force in the submissions as there appear no apparent error on the record. Vide order dated 04.07.2014, this court has ordered which reads as follows:

“I find substance in the submission of learned counsel for the respondents. Once deputationist is regularly absorbed, his deputation ipso facto would come to an end and as such he would no more be entitled to deputation allowance. If salary has wrongly been calculated by adding deputation allowance, it can be rectified and recovered or adjusted, more so if such order of recovery has been made prior to retirement. The challenge to the recovery to aforesaid extent is dismissed.”

From the order, itself, it appears that this Court finds that the fixation of salary of the petitioner after adding the deputation allowance at the time of absorption of the service of the petitioner in the corporation is illegal and the corporation is entitled to recover or adjust the excess amount received by the petitioner on account of fault in fixation of the salary. Learned counsel for the petitioner did not point out any error on the record.



I do not find any merit in this review petition and the same is dismissed.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
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