

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1907 of 2015
IN
Civil Writ Jurisdiction Case No. 16015 of 2006**

- =====
1. The Secretary, Minor Irrigation Department, Government of Bihar, 'Sinchai Bhawan'.
 2. The State of Bihar.
 3. The Secretary, Finance Department, Government of Bihar.
 4. The Chief Engineer, Minor Irrigation Department, Department of Irrigation, 'Sinchai Bhawan'.
 5. The Project Co-ordinator, Water Resources Department, Minor Irrigation Department, 'Bishweshwaraiya Bhawan', Patna.
 6. The Executive Engineer, Tube Well Division, Patna (East).

.... Appellant/s

Versus

1. Baldeo Thakur Son of Late Jaleshwar Thakur R/o Village - Kushi, P.S. - Kanti, District - Muzaffarpur, Retired Fitter of Tube Well Division, Patna (East).
2. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sarvesh Kumar Singh, AAG-13
Mrs. Sunita Kumari, AC to AAG-13
For the Respondent/s : Mr. Shashi Bhushan Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 25-01-2017

Delay of 48 days as explained in the condonation application is accepted. I.A. No. 8539 of 2015 is allowed. However, on having heard learned counsel for the appellant-State, having perused the order of the learned Single Judge and keeping in mind the ratio of the Hon'ble Supreme Court decision in the case of **State of Punjab & Ors. Vrs. Rafiq Masih (White Washer) & Ors.**, reported



in **(2015) 4 Supreme Court Cases 334**, the learned Single Judge has rightly come to a conclusion that no recovery ought to be made. Private respondent was working on the post of Fitter, there was some confusion with regard to the pay-scale to which he was entitled to. This led to conferment of pay-scale of Rs. 4,000 – 6,000/-. However, learned Single Judge has rightly ordered that computation of post retiral dues will be made on the basis of actual pay scale, which is Rs. 3050 – 4500/- and not Rs. 4,000 – 6,000/-.

The order not to recover is covered by the decision and ratio of the Hon’ble Apex Court. The decision of learned Single Judge does not suffer from any vice.

The appeal is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
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