IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 17550 of 2015

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Bindeshwari Ram Son of Late Jageshwar Ram, Resident of Village + P.O. + P.S. - Mahishi, District - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director Department of Primary Education, Government of Bihar, Patna.
3. The Regional Deputy Director of Education Koshi Division, Saharsa.
4. The District Education Officer, Saharsa.
5. The District Programme Officer (Establishment), Saharsa.
6. The Block Education Officer, Mahishi, Saharsa.
7. The Headmaster cum Drawing and Disbursing Officer, Ugra Tara Madhya Vidlayay, Mahishi, District - Saharsa.
8. The District Treasury Officer, Saharsa.
9. The District Provident Fund Officer, Saharsa.
10. The Branch Manager, State Bank of India (00172) Saharsa, P.O. + District - Saharsa.
11. The Chief Manager, Centralized Pension Processing, Centre, State Bank of India, Administrative Building Judges, Court Road, Patna.
12. The Accountant General (A & E), Bihar Mahalekhakar Bhawan, Birchand Patel Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhav Jha, Advocate
For the State	:	Mr. Subhash Chandra Mishra, S.C. 16
For the AG	:	Mr. Bindhyachal Rai, Advocate
For the SBI	:	Mr. Ramesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 25-05-2017

Heard learned counsel for the petitioner, State, Accountant General and the State Bank of India.

2. The petitioner has moved the Court for restarting of pension which, according to him, was stopped.

3. The petitioner is aggrieved by the fact that though he was being paid pension but the same was stopped from July, 2015

forcing him to move this Court.

4. Though no counter affidavit has been filed on behalf of the State Bank of India, despite copy of the writ petition having been served on its counsel more than one and a half years back, which is the agency responsible for making such payment, learned counsel appearing on its behalf submitted that when the pension of the petitioner was revised, due to some mistake in the system, three times higher rate of Dearness Relief was paid to him and when the same was detected, order was passed for recovery in installments and thus, an amount of Rs. 3,000/- and odd is being deducted per month till the time the amount of excess payment is adjusted. He further submitted that the money coming from public exchequer, the State Bank of India had only corrected its mistake and recovery is of the amount which was wrongly paid to the petitioner.

5. The Court is in complete agreement with the submissions of learned counsel for the State Bank of India that public money is to be spent only in a manner which is permissible in law. Further, *bona fide* and genuine mistake can always be corrected. However, in the present case, the Court cannot lose sight of the fact that it relates to pension of a retired employee and when the amount of pension is not too high and was only about Rs. 6,000/-, a person who is advanced in age has numerous financial liabilities, the biggest

one being with regard to taking care of his medical bills. Thus, a retired person is not expected to have a buffer in the form of some accumulated amount so as to take care of any recovery which is not attributable to him in any way. He plans his finances and expenditures on the legitimate expectation that per month he would be getting a certain amount. Suddenly, when recovery is sought and less amount is paid, his world stops and he has no other recourse than to depend on other persons or institutions for getting support to live a life with some sort of dignity. In these harsh circumstances of life, if an amount is deducted from his pension, which in the first place was meagre, in the considered view of the Court, it is violation of his basic human right to live with dignity.

6. In view of the discussions made hereinabove, though the Court would not interfere in such recovery, which as it is, is almost nearing its end, but in the special facts and circumstances of the present case, where admittedly there is fault and laches on the part of the Bank and its officials in not ensuring correct payment of pension to the petitioner, due to which such situation has arisen and which definitely has caused undue prejudice and harm to the petitioner, the Court deems it appropriate to award cost of Rs. 25,000/- to be payable by the State Bank of India to the petitioner. The Court would also direct the authorities of the State Bank of India

to recover the amount from the person(s) who are found responsible for such a situation, since such cost also should not be borne by the public exchequer.

7. Accordingly, the writ petition stands disposed off with a direction to the respondent no. 10 to pay Rs. 25,000/- cost to the petitioner by crediting it into his pension account within three weeks from the date of production of a copy of this order before him. Further, upon the amount of excess payment being adjusted, the original and full amount payable to the petitioner shall be restored without delay.

8. If the petitioner has any other grievance, he may represent with regard to the same before the respondent no. 4. If such a representation is filed within one month from today, along with a copy of this order, the respondent no. 4 shall look into the same and pass a reasoned order within one month thereafter. If it is found that any further payment is required to be made to the petitioner, the same shall also be paid to him within one month thereafter.

(Ahsanuddin Amanullah, J.)

P. Kumar

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