

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.18245 of 2015**

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Balbhadra Prasad Narayan Son of Hari Deo Narayan Prasad Singh Resident of  
Mohalla - Langarpur Barh, (Near Training College), Police Station - Barh, District -  
Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources  
Development Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. District Education Officer, Patna, District - Patna.
4. District Programme Officer (Estt.), Patna, District - Patna.
5. District Accounts Officer, Patna, District - Patna.
6. Sri Siwanshu Kumar Rai Drawing and Disbursing Officer cum Head Master  
Abhyasik Middle School Barh, Patna.
7. Drawing and Disbursing Officer cum Head Master, Middle School, Jamnichak,  
Barh, Patna.
8. Accountant General (A and E), Bihar, Patna.
9. Treasury Office, Sub-Treasury Barh, Patna.

.... .... Respondent/s

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**Appearance :**

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|----------------------|---|----------------------------------|
| For the Petitioner/s | : | Mr. Vikas Kumar, Advocate        |
| For the State        | : | Mr. Uday Pd., AC to GP 22        |
| For the A.G.         | : | Mr. Kumar Priya Ranjan, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 21-09-2017**

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

2. The petitioner has moved the Court for the following  
reliefs:

*“I. For issuance of an appropriate writ/order/direction to the respondents to pay gratuity amount of Rs. 8,07,428.00 with interest to the petitioner after sending non-payment certificate to respondent no. 9 in view of DCRG payment order*



*dated 21.01.2015 issued by the respondent no. 8.*

*II. For issuance of the letter no. 196 dated 09.01.2015 issued by respondent no. 4 to respondent no. 6, whereby directed to recover the excess amount paid to the petitioner w.e.f. 01.01.1986 to 31.12.2014 from petitioner's retiral dues as contained in Annexure-1 to the writ application.*

*III. For quashing of the letter no. 3419 dated 15.04.2015 issued by respondent no. 4 to respondent no. 9 whereby directed that gratuity amount will be paid after deducting/adjusting the excess amount paid to the petitioner after submission of calculation by respondent no. 6 as contained in Annexure-11 to the writ application.*

*IV. For fixation of pay correctly by adding increment after quashing the pay fixation by respondent no. 5 dated 24.12.2014 as contained in Annexure-2."*

3. In sum and substance, the basic grievance of the petitioner is that a sum of Rs. 1,70,996/- has been deducted from his gratuity.

4. Learned counsel for the petitioner submitted that the same is on account of the authorities holding that excess salary was paid to the petitioner during his service period. It was submitted that there was no fault or laches on the part of the petitioner or any misrepresentation by him, even if it is accepted that some excess payment was made. It was further submitted that the petitioner having



retired, he is not only harassed but it is also totally inequitable if such a huge amount is recovered from him and that too without there being any wrong doing on his part.

5. Learned counsel for the State does not dispute the fact that the said recovery is on account of alleged excess payment to the petitioner and further that there were no fault, laches or misrepresentation on the part of the petitioner.

6. Learned counsel for the petitioner further submitted that there are other connected reliefs like promotion etc. which were denied to the petitioner. He submitted that the petitioner be permitted to represent before the Competent Authority in such matter.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the considered opinion of the Court, the recovery from the gratuity on the ground that excess payment was made, in view of there being no fault or laches or misrepresentation on the part of the petitioner, the same cannot be sustained.

8. Accordingly, the order of deduction is set aside. The petitioner shall be paid the amount of gratuity, which has been deducted, within four weeks from the date of production of a copy of this order before the respondents 3 and 4. As far as any other grievance of the petitioner, including grant of ACP, he shall be at



liberty to file representation before the respondents no. 3 and 4 within four weeks from today. Upon the same being filed, the authority shall pass a reasoned order within four weeks thereafter. If any payment is required to be made pursuant to the order which shall be passed, the same shall also be paid to the petitioner within the next four weeks.

9. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

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