IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21839 of 2014

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Shaligram Singh son of Late Sheojee singh At +Post office-- Deopura, Police station-rasoolpur District-- Saran.

.... Petitioner/s

Versus

1. The Accountant General, Bihar , Birchand Patel Path, Patna
2. The State of Bihar through Principal Secretary, Human Resources Department, Government of Bihar, Patna.
3. The Under Secretary, Human Resources Department Government of Bihar, Patna.
4. Director Secondary Education, Budh Marg, Patna.
5. The Treasury officer , Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Singh Ad,
For the Respondent/s	:	Mr. S.K. Jha GP-3

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 10-08-2017

Petitioner is a retired Teacher. After his retirement his service-book etc. was examined for authorization of pension etc. and also stood sanctioned by the Accountant General on 4th of December, 2012. However, subsequently it was discovered that the petitioner had not passed Hindi Noting and Drafting Examination any time during his service career and, therefore, was not entitled to the increments, which he never earned. However, due to may be omission and oversight the increment component got included in his pay bill and he derived benefit thereof till his superannuation.

When the Accountant General discovered this fact, the petitioner was given an opportunity to explain. He took a plea that he was not aware that he was supposed to pass the Hindi Noting and Drafting Examination and since the increments were granted by the competent authority, the same should not be now ordered to be deducted or pension revised.

Looking at the trend and recent judgment of the Hon'ble Apex Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) reported in 2015 (1) PLJR (SC) [261]*** the decision of the respondent-authorities including the Accountant General for withholding or recover a sum of Rs. 3,10,813/- is required to be set aside. If recovery has been made, the same is ordered to be refunded.

However, since it is an admitted position by the petitioner that he never passed the Hindi Noting and Drafting Examination during his service career, he cannot continue to derive the benefit of increments by including it into the component of the pension. The Accountant General, therefore, has rightly issued a revised PPO, re-fixing his pension, excluding the increments, which could not have added to his advantage life-long and to which admittedly he is not entitled to, under law.

No interference is warranted with regard to the re-fixation of pension of the petitioner.

Writ application stands disposed off with the observation / direction as above.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	12.08.2017
Transmission Date	