IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.402 of 2015
IN
Civil Writ Jurisdiction Case No. 12089 of 2011

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1. Anil Kumar Jha
2. Sunil Kumar Jha
3. Sushil Kumar Jha
4. Bipin Kumar Jha Sons of Late Brajeshwar Jha All are Resident of village - Jogiara, Via - Anandpur, P.S. Bahadurpur, District - Darbhanga
5. Saroj Chaudhary D/o Late Brajeshwar Jha, Wife of Ashok Kumar Chaudhary Resident of village + P.O. Panchov, P.S. Bishanpur, Distt. - Darbhanga

.... Appellants

Versus

1. The State of Bihar
2. The Secretary, Education, Bihar, Patna
3. The District Superintendent of Education, Darbhanga
4. The Accountant General, Bihar, Patna

.... Respondents

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Appearance :

For the Appellants	:	Mr. Kamala Prasad Rai, Advocate
		Mr. Satya Ranjan Sinha, Advocate
		Ms. Seema Kumari, Advocate
For the Respondent State:		Mr. Shashi Shekhar Pd. Singh, AC to GA-6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 30-06-2017

The order under challenge is dated 12.01.2015. The learned single Judge dismissed the writ application and refused to interfere with the decision dated 22.02.2005 of the respondent authorities for making recovery of Rs.94,460.00 from the gratuity of erstwhile petitioner, who was a Headmaster, because of the reason that he had drawn excess salary by way of increments etc. despite not passing the Hindi noting and drafting examination.

The Court is willing to agree with the statement made by the learned counsel for the appellants keeping in mind the ratio of the decision of the Hon'ble Apex Court in the case of ***State of Punjab Vs. Rafiq Masih*** reported in **2015(1) PLJR 261 (SC).** The concluding and relevant paragraph, paragraph 12 of the said decision, supports the case of the appellant.

In view of the same, the appeal is allowed. The impugned order dated 12.01.2015 passed in C.W.J.C. No. 12089 of 2011 is quashed. The respondents are directed to refund the recovered amount, if it has been done, or else no recovery will be required to be made.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Pawan/-

AFR/NAFR	NAFR
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