

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14878 of 2014

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Nageshwar Tiwari son of Late Jiwat Tiwary Resident of village - Nawa Nagar, P.O. Karnaul, P.S. Sahebganj, District - Muzaffarpur, the retired Assistant Teacher, Middle School, Sahebganj Girl, P.S. Sahebganj, District - Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Primary Education, Education Department, Government of Bihar, Patna
3. The District Education officer, Muzaffarpur, District - Muzaffarpur
4. The District Programme Officer (Establishment), Muzaffarpur, District - Muzaffarpur
5. The Treasury officer, Muzaffarpur, District - Muzaffarpur
6. The Headmaster, Middle School, Sahebganj Girl, P.S. Sahebganj, District - Muzaffarpur
7. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
For the Accountant General : Mr. Vivekanand Kumar
For the State : Mr. Ravish Chandra
AC to SC-6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

6 19-09-2017 Since the State counsel has nothing to offer by way of submission with regard to the relief, which has been prayed for by the petitioner and no counter affidavit has been filed in many years, despite indulgence granted by the Court to them, the Court is left with no option but to allow the writ application.

The deduction, which has been ordered to be made is on the ground of so called excess payment for the period 1986-90. The order of withholding and deducting the amount from the



gratuity after retirement of the petitioner even otherwise is bad in law, keeping in mind the recent decision 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]*.

Writ Application is allowed.

Respondents are directed to refund the deducted amount within a period of three months from the date of communication / production of a copy of this order.

(Ajay Kumar Tripathi, J)

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