

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4667 of 2012

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Harikesh Pandey Son Of Late Gopinath Pandey Resident Of Village - Sahuli, P.S.-
Hussainganj, District- Siwan

.... Petitioner/s

Versus

1. The State Of Bihar Through The Home Secretary, Government Of Bihar, Patna
2. The Director General Of Police, Government Of Bihar, Patna
3. The Deputy Inspector General Of Police, (Human Right), Government Of Bihar, Patna
4. The Special Secretary, Home (Special) Department, Government Of Bihar, Patna
5. The Senior Superintendent Of Police, Patna , District - Patna
6. The Treasury Officer, Siwan, District - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Nath Dubey, Advocate
Ms Punam Kumari, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, G.A.-1

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 15-09-2017

The petitioner, a retired employee has filed this writ petition challenging the order passed by the respondents directing recovery of Rs. 1,00,000/- from his pension on the ground that he has arrested a wrong person, violating the human rights of the arrested person and based on an enquiry and report submitted by the Human Rights Commission of the State in question, the impugned action has been taken.

While considering various issues involved in the



matter, on 04.04.2012, this Court took note of the fact based on the statement made by learned counsel for the petitioner that before the Human Rights Commission gave its recommendation directing for payment of compensation of the State Government and opportunity to the Government to recover the amount, no enquiry from the petitioner as required under Section 16 of the Protection of Human Rights Act was conducted. It was also found that no memo of charge-sheet under the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 was issued to the petitioner and even the requirement of Rule 43(b) of the Bihar Pension Rules were not complied with. The State Government was directed to submit a detailed counter affidavit and clarify as to on what basis the impugned action has been taken, whether any enquiry was conducted, if so details of the same. The State Government, thereafter filed a detailed counter affidavit on 10.5.2012 and on a perusal of the same, it is seen that merely based on the findings recorded by the State Human Rights Commission, without issuance of any charge-sheet to the petitioner, the impugned action was taken, nor any charge-sheet issued or enquiry conducted in accordance to the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 or Rule 43(b) of the Pension Rules.

That being so, it is a case where penal action for recovery of Rs. 1,00,000/- from the pension of the petitioner is



ordered without following due process of law, in violation to the statutory provisions and the principles of natural justice and this alone is the ground, this writ petition should be allowed.

Accordingly, the order dated 20.07.2011 passed by the respondents ordering for recovery of Rs. 1,00,000/- stands quashed. The amount is directed to be refunded back to the petitioner.

The writ petition stands allowed.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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