

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.79 of 2017

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Chandra Bilash Sharma, aged About 68 years, Son of Late Ramal Sharma, Resident of Village--Supta, P.S.-Tekari, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Agriculture Department.
2. The Treasury Officer, P.S.- Civil Line, District-Gaya.
3. The Regional Manager, Bank of Baroda, Patna.
4. The Branch Manager, Bank of Barodra Lodipur, Tekari Branch, P.S.-Tekari, District-Gaya.
5. The Block Development Officer, Barachatti, District- Gaya.
6. The Block Development Officer, Paraya, Gaya, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Sr. Adv. with Mr. Virendra Prasad, Adv.
For the Respondent/s	:	Mr. Sanjay Kumar, AC to SC-15
For the Bank of Baroda	:	Mr. Ravi Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-11-2017

Heard Mr. Yugal Kishore, learned senior counsel appearing for the petitioner along with Mr. Virendra Prasad, the Advocate on record, Mr. Sanjay Kumar, learned Assisting Counsel to Standing Counsel No.15 for the State and Mr. Ravi Verma learned counsel appearing for the Bank.

The petitioner is aggrieved by the direction contained in the letter no.953 dated 19.8.2016 of the Senior Treasury Officer, Gaya whereby the Branch Manager, Bank of Baroda, Gaya has been directed to deduct an amount of Rs.2,24,807/- from the arrears of pension amount admissible to the petitioner to the tune of



Rs.8,36,482/- and to deposit the balance amount of Rs.6,11,675/- in his account. A copy of the letter is impugned at Annexure-3.

With the consent of the parties this writ petition has been heard with a view to its final disposal at the stage of admission itself.

The facts of the case lie in a very narrow compass.

The petitioner superannuated as a Panchayat Sevak with effect from 28.2.2009. Although the petitioner was belatedly paid his post-retiral benefits with effect from 2014 but arrears of pension for the period March, 2009 until 2014 was pending and for which he came before this Court and directions were issued for release of the same. It is thereafter that the Senior Treasury Officer, Gaya on realizing that certain amount was outstanding by way of advance against the petitioner, has issued the direction impugned.

I have heard learned counsel for the parties and I have perused the records. It is not in dispute that the direction issued by the Senior Treasury Officer, Gaya is without any opportunity to the petitioner to clarify the position. It is again not in dispute that following the order of this Court the Bank of Baroda has deducted the amount of Rs.2,24,807/- and remitted in the account of Block Development Officer, Paraiya as admitted by Mr. Ravi Verma, learned counsel appearing for the Bank in reference to the statements made in paragraph 7 of the counter affidavit filed on their



behalf.

Mr. Sanjay Kumar, learned counsel appearing on behalf of the Block Development Officer, Paraiya has in reference to the letter of the Programme Officer, Paraiya, Gaya bearing Memo No.119 dated 27.6.2017 present at Annexure 'C' to the counter affidavit filed on behalf of the Block Development Officer, Paraiya submitted that the said amount has been deposited in the account of the Deputy Development Commissioner, Gaya vide Cheque No.859849 dated 27.6.2017. He thus submits that the amount lies in the account of the Deputy Development Commissioner, Gaya.

While it is the specific contention of learned counsel for the State that the advance has not been accounted for by the petitioner until his retirement and which necessitated the recovery, it is admitted that though notice was issued earlier to the petitioner who did not reply but no formal proceeding was drawn until the issuance of direction by this Court. In other words, a recovery has been effected without drawing a proceeding to that effect. On this limited violation of principles of natural justice as well as the illegality committed by the respondent Treasury Officer in effecting the recovery without following the statutory procedure, the recovery is held illegal and is accordingly quashed and set aside.

That the money has been recovered from the pension



amount of the petitioner and forwarded to the Block Development Officer, Paraiya who in turn has deposited the same in the account of the Deputy Development Commissioner, Gaya as admitted by the Block Development Officer, Paraiya in his affidavit in reference to Annexure ‘C’, the Deputy Development Commissioner, Gaya is directed to release the amount in favour of the petitioner within a period of six weeks from the date of receipt/production of a copy of this judgment.

This order, however, would not preclude the respondent authorities, if so advised, to follow the law in case they wish to pursue the matter.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.11.2017
Transmission Date	NA

