

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4252 of 2011**

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Pragwendra Prasad Singh Son Of Late Ripu Madhusudan Singh Resident Of  
Village-Arrah, P.S.-Arrah, District-Bhojpur At Present In The Civil Court Bhojpur  
At Arrah

.... .... Petitioner

Versus

1. The State Of Bihar
2. The Joint Secretary, Health Department, New Secretariate, P.S.-Sachiwalaya,  
District-Patna
3. The District And Sessions Judge Bhojpur At Arrah
4. The Judge Incharge (Accounts) Cum The Registrar, Civil Court, Arrah

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Anirudh Kumar Sinha, Advocate

For the Respondent/s : Ms. Puspanjali Sharma, A.C. to S.C.20

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL JUDGMENT**

**Date: 18-01-2018**

Learned counsel for the parties.

2. The petitioner, in the present case, is aggrieved by letter no. 87 dated 13.08.2010 as contained in Annexure-10 to the writ application, by which the Judge-in-Charge (Accounts Department), Civil Court, Bhojpur at Ara has passed an order to deduct a sum of Rs. 30,315/- from the amount due to the petitioner on account of arrear of salary arising out of the implementation of 5<sup>th</sup> Pay Revision or in three monthly equal installment from the monthly salary of the petitioner.

3. It appears that the impugned order was earlier stayed by this Court by order dated 09.03.2011. The petitioner



has retired on 31<sup>st</sup> August, 2016. A perusal of the impugned order would show that the whole dispute cluster around the fact that as to whether or not the petitioner was granted one additional increment by way of incentive for family planning in terms of the government circular vide memo no. 899 dated 23.02.1982, with effect from 01.05.1989.

4. Learned counsel submits that from the impugned order it would appear that the Judge-in-Charge (Accounts Department), Civil Court, Bhojpur at Ara has recorded that one additional increment on account of family planning allowance was already added and granted to the petitioner in the year 1989 itself, therefore prior to the 5<sup>th</sup> Pay Revision he had already been granted one additional increment and the same had merged with the revised pay scale. He has, therefore, taken a view that once the additional increment was allowed to the petitioner in the year 1989 itself, one more increment was wrongly added w.e.f. 01.01.1996 at the time of revision of the pay scale, and payment thereof was not in accordance with the government of Bihar (Finance Department) Letter No. 354 dated 14.01.2008. He has termed this mistake as a discrepancy in the matter of payment made to the petitioner, and, therefore, the recovery has been ordered.



5. Learned counsel submits that the impugned order is not based on reasons and what has been stated in the impugned order is factually incorrect inasmuch as it will appear from Annexure-3 that the petitioner was sanctioned the additional increment only on 21.08.1995. He submits that although in the year 1995, the then learned District Judge, Bhojpur at Ara granted an extra increment with effect from the date on increment after the family planning operation i.e. 06.12.1988 and the Accounts Department was directed to add increment and prepare his arrear bill. This order was not carried out for a long time and only after much persuasion the petitioner was paid the same in the year 2008. He has brought on record Annexure-5 which is a Xerox copy of the service book of the petitioner of the relevant period to show that after the sanction order was passed by the District Judge vide Annexure-3 to the writ application, the petitioner was granted only normal increment and no additional increment or extra increment by way of incentive in terms of government's decision was granted to the petitioner. The calculation shown in Annexure-5 shows that the petitioner was granted an extra increment w.e.f. 01.05.1989, but according to the petitioner, this was any yearly increment plus he was given junior selection



grade in normal course w.e.f. 30.10.1989. As per Annexure-5, the revised pay as on 01.05.1989 has been shown as Rs. 1500 + 30 as on 01.05.1990, i.e., after one year, he has been granted next increment on Rs. 1530 + 30. This, according to the petitioner, would show that no extra increment by way of incentive was given to him, as has been stated in the impugned order.

**6.** On the other hand, learned counsel representing the State submits that it is a matter between petitioner and respondent nos. 3 & 4. Respondent Nos. 3 & 4 has filed a counter affidavit in which it is stated that one increment had already been granted to the petitioner in the year 1989 with regard to the family planning allowance and the same has been added at the time of 5<sup>th</sup> Pay Revision in the year 1996 and again another increment was given to the petitioner which was recorded in the service book on 01.01.1996, and on the basis of the same, the due amount has been paid to the petitioner which is not in accordance with the Bihar Government (Finance Department) Letter No. 354 dated 14.01.2008. There is however no answer to the submission of the petitioner based on his service book (Annexure-5).

**7.** In absence of a specific answer to the



submissions made by the petitioner, this Court is of the considered opinion that this matter is required to be remitted back to the Judge-in-Charge (Accounts Department), Civil Court, Bhojpur at Ara to consider the stand of the petitioner which he has attempted to show *prima facie* from the extract of service book (Annexure-5). He will give an opportunity of hearing to the petitioner to submit his grounds against the recovery, as per order contained in Annexure-10, and then, after giving him a personal hearing, an appropriate order shall be passed by the Judge-in-Charge (Accounts Department), Civil Court, Bhojpur at Ara. This exercise may be completed within a period of three months from the date of receipt/production of a copy of this order. Till date, the impugned order, as contained in Annexure-10, shall remain in abeyance.

8. With the aforesaid observation and direction, this Writ Application is disposed off.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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