

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4079 of 2011

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Narendra Prasad Singh, S/O Late Mahendra Prasad Singh, R/O Village and P.O.-
Bahilwara Govind, P.S.- Saraiya, Distt.- Muzaffarpur, Presently Posted As
Headmaster, Nationalized Nitishwar Middle School, Maripur, Town Area,
Muzaffarpur, Distt.- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, Patna
4. The District Education Establishment Committee, Muzaffarpur through the
Chairman
5. The District Magistrate, Muzaffarpur-Cum-Chairman, District Education
Establishment Committee, Muzaffarpur
6. The District Superintendent of Education, Muzaffarpur, Distt.- Muzaffarpur
7. The Treasury Officer, Muzaffarpur, Distt.- Muzaffarpur
8. The Drawing and Disbursing Officer, Nationalized Nitishwar Middle School,
Maripur, Town Area, Muzaffarpur, Distt.- Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
For the Respondent/s : Mr. Prahlad Kr. Bhagat, GP13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 14-08-2018

Heard learned counsel for the petitioner and State.

2. The instant writ application has been filed by the
petitioner for quashing of the Memo no. 1743 dated 08.06.2010.

3. Vide order dated 01.02.2016, while admitting this
writ application, the Court has passed the interim order in the nature
of restraining the respondents from taking any step for recovery of the
alleged excess amount in the light of the judgment of the Apex Court
in the case of **State of Punjab and others Vs. Rafiq Masih (White**



Washer), reported in **(2014) 8 SCC 883**.

4. Learned counsel for the petitioner submits that the case of the petitioner is squarely covered by the judgment of the Apex Court in the case of **State of Punjab and others Vs. Rafiq Masih** (supra), as the petitioner superannuated and thereafter the respondents have taken the decision of recovery of alleged excess amount. There is no fraud or misrepresentation practiced by the petitioner and in view of the law laid down by the Apex Court in the case of **State of Punjab and others Vs. Rafiq Masih** (supra), recovery is not permissible after superannuation.

5. Considering the aforesaid fact and the fact that while admitting the case interim order was passed by this Court on 01.02.2016 whereby recovery of excess amount paid was stayed, the writ petition does not warrant any adjudication of the issue, as it is covered by the judgment of the Apex Court.

6. The Court in the totality of the facts situation does not seem any reason to dwell upon any other factual or legal enquiry as there is no denial of the fact that petitioner superannuated and the order of recovery was stayed by the Court. Accordingly, the writ petition is allowed. The order dated 08.06.2010 (Annexure-6) is quashed. However, liberty shall be available to the respondents to fix the pensionary benefits of the petitioner as per the entitlement



notwithstanding quashing of Annexure-6, dated 08.06.2010.

With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.08.2018
Transmission Date	

