

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15232 of 2015

=====

Rajdeo Prasad Mehta, Son of Late Babujee Mehta, resident of village -
Nonpar, Police Station - Kaijam Bazar, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Supaul.
4. The District Program Officer (Establishment), District - Supaul.
5. The Block Education Officer, Raghampur, District - Supaul.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Naresh Kumar Mehta, Advocate
For the Respondent/s : Mr. Shiv Kumar, AC to GA-3

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 06-12-2018

Heard learned counsel for the petitioner and the
respondents.

2. The only issue involves in this writ application is
whether the respondents were liable to refund of Rs. 73290/-,
which was deducted from the unutilized earned leave.

3. The factual matrix of this case is as follows:

The petitioner was appointed in the year 1970. At the
relevant time, the petitioner was only 15 years. The School in
question was taken over in 1981. Subsequently, the petitioner
passed Intermediate and he became trained after passing the
Teachers Training Examination in 1995. On 11.12.2012, while the
petitioner was working as Teacher in Middle School, Dharampatti
in Raghampur Block in the district of Supaul, the District



Programme Officer (Establishment), Supaul issued letter addressed to the Headmaster-cum-Drawing and Disbursing Officer of the School notifying the date of retirement of the petitioner as 30.09.2012, although the petitioner has worked up to 11.12.2012. The salary paid to the petitioner for the month of October and November was deducted from the Leave encashment of the petitioner.

4. Since the respondents have allowed the petitioner to continue and work till 11.12.2012, the respondents are not justified in directing recovery of that amount from the post-retiral dues, as the petitioner was paid salary for the period, he has worked as Teacher.

5. In view of the above, the Court direct the respondents to refund Rs. 73,290/- to the petitioner, as the petitioner was paid salary for the period he rendered his service as the respondents have allowed the petitioner to continue upto 11.12.2012.

6. Considering the above, the recovery of Rs.73,290/- is hereby declared as illegal and arbitrary and respondents are accordingly liable to pay the amount which was recovered from the post retiral dues of the petitioner. Necessary orders for refund of Rs.73,290/- shall be issued by the respondents within a maximum period of sixty days from the date of receipt/production



of a copy of this order, failing which the amount will carry interest at the rate of 9% per annum from the date of recovery till the date of actual payment

7. It is needless to state here that while taking decision, the respondents have to work out whether the petitioner has been paid pension for the aforesaid period or not, as the petitioner cannot be granted the benefit of salary and pension both simultaneously for the aforesaid period.

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

(Anil Kumar Upadhyay, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2018
Transmission Date	

