

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1080 of 2017**

**In**

**Civil Writ Jurisdiction Case No.14716 of 2011**

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1. The State Of Bihar through the Secretary, Minor Irrigation, Water Resources Department, Sheikhpura, Patna.
  2. The Chief Engineer, (South), Tubewell Wing, Minor Irrigation, Water Resources Department, Sheikhpura, Patna.
  3. The Project Coordinator, Minor Irrigation Water Resources Department, Tubewell Wing, Govt. of Bihar, Patna.
  4. The Superintending Engineer, Tubewell Circle, Mithapur, Patna.
  5. The Executive Engineer, Tubewell Division, Minor Irrigation, Water Resource Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

Madhusudan Prasad Singh Son of Late Bhaju Ram Singh Resident of Village-Barahia, Police Station Barahia, District-Lakhisarai Presently retired as Electrician, Grade-ii, Tubewell Division, Munger

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ram Shankar Prasad

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

4      28-06-2018                      Heard learned counsel for the appellants and counsel  
for the private-respondent.

The appeal has been preferred against the order, dated 29.03.2016, passed by the Learned Single Judge, who not only allowed the writ application of the petitioner, who is the private-respondent, but also quashed the decision of the State Authorities to effect recovery, based on unilateral decision, to the extent of Rs. 3,00,000/- (three lakhs) after more than 29



years of service, on the discovery that the initial pay, which was fixed and paid to the private-respondent for 29 years, was somewhat erroneous, which became the cause of action for filing the writ application.

The factual aspect of the matter is not a matter of dispute. The stand of the State is that way back in the year 1979, his pay-scale was fixed as Rs. 240-396, whereas his entitlement was Rs. 220-315.

Twenty nine years is a long long period in history for any authority to discover the mistake. But such discovery after three decades cannot be used to the disadvantage of an employee by unilaterally ordering reduction as well as recovery made for the entire three decades of payment. Naturally the Learned Single Judge having found violation of principles of natural justice with no evidence that any opportunity was given to the employee and rightly relying upon the principle laid down by the Hon'ble Apex Court in the case of *State of Punjab and Others Versus Rafiz Masih (white washer) and others, reported in (2015) 4 SCC 334*, allowed the writ application.

Since the decision does not suffer from any error or infirmity, this appeal deserves to be dismissed. It is dismissed, accordingly.

In fact, it was fit case where suitable cost should be



awarded upon the State for filing such a frivolous appeal and unnecessary litigating the issue, when they should do august cleaning within the house, instead of finding faults with such employees.

**(Ajay Kumar Tripathi, J)**

**( Nilu Agrawal, J)**

skm/-

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