

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.177 of 2018

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Birendra Singh, S/o Late Jay Prakash Singh, resident of village-Sambhika Nagar, Lal Colony, Dehri-on-Sone, Sambhika Path Dehri, District-Rohtas, Bihar

.... Petitioner/s

Versus

1. The General Manager (Human Resource and Administration) Bihar State Power Holding Company Ltd. Vidyut Bhawan, Bailey Road, Patna
2. The Deputy General Manager (Human Resource and Administration) South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna
3. The General Manager-cum-Chief Engineer, South Bihar Power Distribution Company, Ltd. Patna
4. The General Manager-cum-Electric Superintending Engineer, Magadh Electric Supply Area, Gaya
5. The Senior Manger (Personnel) Magadh Electric Supply Area, Gaya
6. The Electric Superintending Engineer, Electric Supply Circle, Sasaram
7. The Executive Engineer, Electric Superintending Engineer, Electric Supply Divisions, Dehri, Rohtas

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ashok Kumar Dubey
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma
Mr. Akhileshwar Singh

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 01-08-2018 The present review petition has been filed seeking review of the judgment and order dated 04.05.2018 passed in CWJC No 14893 of 2017.

The only contention of the learned counsel for the petitioner is that since the petitioner had approached for refund of the amount recovered, he should have been granted the said relief in light of the order of the Hon'ble Apex Court passed in the case of *State of Punjab & ors. vs. Rafiq Masih & ors.* reported in *(2015) 4 SCC 334*.

Per contra, the learned counsel for the respondents



has produced an order dated 18.07.2018, passed by the Managing Director, South Bihar Power Distribution Company, whereby and where under the petitioner has already been granted the relief, as directed by an order dated 04.05.2018 passed by this Court in CWJC No. 14893 of 2017 inasmuch as the pay-scale of Rs. 29,570/- has been directed to be paid to the petitioner herein.

I have perused the materials on record and I find that at this juncture it would be apt to reproduce the prayer made by the petitioner in the writ petition:-

“I. For issuance of an appropriate writ/writs, order/orders and/or direction/directions in the nature of mandamus upon the respondents to fix the retirement benefit at the pay scale of Rs. 29,570/- with all consequential benefits as junior to the petitioner retired and their retirement benefit/pension and gratuity was fixed on said pay scale whereas, the petitioner was allowed to retire in the pay scale of Rs. 28,860/- and his retirement benefit/pension and gratuity was fixed on said pay scale which is lesser than his juniors.

II. For issuance of direction to refund all the recovered amount with 12% statutory interest to the petitioner which was recovered after his retirement in arbitrary manner, in the garb of rectification of pay scale from the date of entry in service to retirement.

III. For issuance of direction to pay Rs. 50,000/- litigation cost to the petitioner.



IV. For any other relief/reliefs for which the petitioner is entitled in the eye of law.”

From the aforesaid prayers made by the petitioner herein it is apparent that the petitioner has already been granted relief being sought for and as far as recovery is concerned, the petitioner did not challenge the orders contained in Annexure-8, 9, 10, 12 and 13 to the writ petition, which pertain to the recovery sought to be made from the petitioner as also the calculation of the amount sought to be recovered from the petitioner. In absence of any challenge to the order of recovery, no further relief could have been granted to the petitioner.

In view of the aforesaid, there is no merit in the present review petition. Accordingly, the same is dismissed.

At this juncture, the learned counsel for the petitioner submits that the petitioner be granted liberty to correct his mistakes and take appropriate steps for challenging the aforesaid order of recovery. The liberty so sought is granted.

(Mohit Kumar Shah, J)

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