

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 4463 of 2016

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Nunu Singh, aged about 66 years, Retired Office Superintendent, Electric Supply Division, Barh, Son of Late Ramrup Singh, Resident of Near Sarita Cinema, Congress Maidan, PO + PS - Barh, District Patna.

... .. Petitioner/s

Versus

1. The Chairman -Cum- Managing Director, Bihar State Power Holding Company Ltd, Vidyut Bhawan, Bailey Road, Patna – 800 021
2. The Managing Director, South Bihar Power Distribution Company Ltd, Vidyut Bhawan, Bailey Road, Patna – 800 021
3. The General Manager -cum- Chief Engineer, Central Area Electric Supply, Serpentine Road, Patna- 800 023
4. The Electrical Executive Engineer, Electric Supply Division, Barh

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Nilesh Kumar Nirala
For the Respondent/s : Mr.Vinay Kirti Singh

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 21-10-2019

Heard learned counsel for the petitioner and the respondents.

The facts admitted in the proceedings are that the petitioner retired from the post of Office Superintendent from the Office of Electric Supply Division on 31.10.2010. He had submitted his pension -cum- Gratuity Form along with required documents for processing his pensionary benefits in January, 2011. The petitioner, on 01.07.2010, was drawing the salary on the basis of basic pay of Rs 27,010/-.



The last pay drawn is sought to be reduced by the respondent-Authorities on account of vetting done by the Company Headquarters whereby the basic pay drawn by the petitioner at the time of his retirement, i.e., Rs 27,010/- has been reduced to Rs 26,040/-. Such reduction of basic pay and calculation of consequential benefits on such basis is assailed by the petitioner in the instant writ proceedings. It is submitted that without giving any opportunity and without complying with the principles of natural justice, the basic pay, lastly drawn by the petitioner, is sought to be reduced. The order, having civil consequence, is not preceded by any opportunity and is, therefore, unsustainable in the eyes of law.

Counter affidavit also does not disclose that any opportunity was given to the petitioner.

Learned counsel for the respondent-Company has submitted that since the last pay drawn was vetted by the Company Headquarters and it was found that the petitioner was getting more than what he was entitled, the same had been reduced.

The settled legal position is that order, visiting the employee with civil/penal consequences, cannot be enforced or passed without complying the principles of natural justice.



Lowering of the petitioner's last pay drawn under order dated 16.06.2012 issued by the Electrical Executive Engineer, Barh entails civil consequences, and is, therefore, not sustainable in the eyes of law and is hereby quashed.

Till such time, the Authorities pass appropriate order in compliance with the principles of natural justice, the petitioner cannot be made to suffer the consequences of the order dated 16.06.2012. He would be entitled to the consequences of quashing of the same.

Writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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