

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 6342 of 2015

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Shankar Prasad Choudhary, Son of Krishna Prasad Choudhary, Resident of
Mohalla - East Boring Canal Road, Near Vishnu Palace, Raiji Gali, Mishra
Bhawan, P.S. - Budha Colony, District - Patna.

... .. Petitioner/s

Versus

1. The Bihar Public Service Commission, Patna through its Secretary
2. The Secretary, Bihar Public Service Commission, Patna.
3. The Assistant Secretary-cum-Administrative Officer, Bihar Public Service Commission, Patna.

... .. Respondent/s

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For the Petitioner/s	:	Mr Baidya Nath Thakur, Advocate
For the Respondent/s	:	Mr Rajni Kant Jha, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 12-03-2019

Heard learned counsel for the petitioner and the respondent-State.

2 The writ petition has been filed for quashing the order dated 02.09.2014 issued by the Bihar Public Service Commission (for brevity, *the Commission*) whereby the petitioner's claim for refund made pursuant to the orders passed in *CWJC No 244 of 2013*, earlier filed by the petitioner, has been rejected and the respondent-authorities have refused to interfere with the earlier order directing the recovery dated 19.07.2002.

3 It is submitted by the learned counsel for the respondents that the claim of the petitioner is wrong and, thus, the



same has been denied by the respondents. They have taken a specific stand in the counter affidavit that the statements made in the writ petition are misleading. They have further submitted that the petitioners have not submitted any voucher or documents in support of his claim. The issue raised in the writ petition is, therefore, in the realm of disputed questions of fact. Such disputed questions of fact cannot be resolved in the writ jurisdiction. The alleged due refund was held by order dated 19.01.2013 passed in the earlier writ petition filed by petitioner in CWJC No 244 of 2013 as being barred by delay and laches as the recovery order was passed as far back as on 19.07.2002. The petitioner has not submitted his claim on the basis of any document before the respondent-Commission or before this Court. The amounts claimed by the petitioner are denied and disputed by the Commission. It is trite law that disputed issues of fact should normally not be gone into in a writ proceeding.

4 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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