IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6560 of 2019

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Pradip Kumar Srivastava Son of Late Kandh Bihari Sahay Retired Executive Engineer, Resident of Village- Thawe, P.S.- Thawe, District- Gopalganj.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Road Construction Department, Government of Bihar.
3. The Principal Secretary, Rural Works Department, Government of Bihar.
4. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.
5. The Deputy Secretary (Vigilance), Road Construction Department Government of Bihar.
6. The Officer on Special Duty, Rural Works Department, Government of Bihar, Patna.
7. The Accountant General, Bihar, Patna.
8. The Treasury Officer, Siwan.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Srivastava, Advocate
For the Respondent/s	:	Mr. Raj Ballabh Prasad Yadav (AAG-11)
For the AG	:	Mr. Kumar Priya Ranjan, SC
		Mr. Niraj Kumar, Advocate
		Mr. Girish Nandan Abhishek, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 23-04-2019

Heard the learned counsel for the parties.

2. The petitioner is aggrieved by the communication made on 02.08.2018, contained in Memo No. 8628, between the Deputy Secretary of the Government and the Accountant General, wherein a decision has unilaterally been taken for deducting an

amount of Rs. 3,99,900/- from the leave encashment dues of the petitioner who has superannuated.

3. It appears from the pleadings in the writ petition that in the year 2003-04, the petitioner was subjected to an enquiry in which it was found that some irregularities had been committed which had financial implications. However, the notice which was served upon the petitioner was responded by him in the year 2012, but after that there was no further communication to him regarding rejection or acceptance of such reply. After the retirement, the petitioner has been slapped with the order of recovery of Rs. 3,99,900/-. The respondents are, it has been argued, under an obligation to to have put the petitioner to notice and if at all any notice was issued, the reply of the petitioner ought to have been considered. Without letting the petitioner know whether his reply has been accepted, no money can be recovered from financial dues/post-retiral dues.

4. There is nothing on record, especially in the letter referred to above to indicate that any decision was taken by the concerned authority over the explanation offered by the petitioner way back in the year 2012. As such, such deduction, unilaterally, does not have the sanction of law and therefore it has been urged that the respondents be directed to return the aforesaid amount. The representation/complaint of the petitioner before the Principal Secretary, Rural Works Department, Government of Bihar has not been adverted to till date.

5. Under the aforesaid circumstances, this Court deems it appropriate to direct the petitioner to make a fresh complaint/representation before the Principal Secretary, Rural Works Department, Government of Bihar, Patna (respondent no. 3) indicating the details of his grievances, within a period of four weeks from today, who on receipt of the same shall, after verifying the facts, pass a reasoned order in accordance with law within a further period of six weeks thereafter. If it is found that the

recovery of the aforesaid amount is not justified on facts, necessary order rectifying that mistake also shall be passed within the aforesaid stipulated period.

6. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2019
Transmission Date	