

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15444 of 2011

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Krishna Murari Prasad S/O Shri Rambariksha Ram R/O Bangala Asthan,
Pahsi, Post R.M.S. Ps. Kotwali, Distt. Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary Govt. of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department Of Finance, Govt. Of Bihar, Old Secretariat, Patna
4. The Joint Secretary, Department Of Finance, Govt. Of Bihar, Old Secretariat, Patna
5. The Deputy Secretary, Press Establishment Department Of Finance, Govt. Of Bihar, Old Secretariat,
6. The Principal Secretary, Department Of Personnel And Administrative Reforms, Govt. Of Bihar, Old Secretariat, Patna.
7. The Joint Secretary, Department Of Personnel And Administrative Reforms, Govt. Of Bihar, Old Secretariat, Patna
8. The Deputy Secretary, Department Of Personnel And Administrative Reforms, Govt. Of Bihar Old Secretariat, Patna.
9. The Director, The Directorate Of Printing And Stationary, Govt Of Bihar, Old Secretariat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate. :
For the Respondent/s : Mr.Sanjay Kr No.2 G.A-5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

18 09-09-2019 Heard learned counsel for the petitioner and learned
counsel for the Respondent-State.

The writ petition has been filed by the petitioner claiming consideration of his representation for being granted the revised scale in respect of the benefits granted under ACP treating the petitioner to be a member of the Secretariat and its



attached offices. During pendency of the writ proceedings the representation of the petitioner has been considered and the same has been rejected by reasoned order. The authorities have decided that the Directorate of Printing and Stationery is not a department of the Secretariat. The petitioner, therefore, being an Upper Division Assistant in the Directorate cannot claim the benefits granted to the employees/ members of Secretariat and its attached offices under Bihar Secretariat Services Rules 2010.

The background of the dispute is that since 1986 the petitioner was being granted the scale available to upper division clerk in the Secretariat and its attached offices. The grant was given without any misrepresentation on the part of the petitioner and by a conscious decision of the authorities themselves. Parity in the pay with members of the Secretariat and attached offices has been maintained ever since 1986 to 2015. It is only at this juncture respondent have realized that the Directorate is not a part of the department or its attached offices and as such petitioner serving in the Directorate ought not to have been granted scale admissible to the employees of the Secretariat and its attached offices.

The petitioner's counsel submits that at serial No.8 in the list of the attached offices of the Finance Department



petitioner's Directorate has been enumerated. Petitioner would be covered by the clauses 4 and 5 of Serial No. 8 of the list of Secretariat and attached offices in the 2007 Gazette Notification, (Annexure-8) of the Supplementary Affidavit filed by the petitioner which is dated 22.3.2007.

From perusal of the list, it is clear that the Directorate of Printing and Stationery is not declared as one of the attached offices of the Finance Department, though Printing press has been declared as attached office Stationery and forms is also enumerated. However, Directorate of Printing and Stationery, where petitioner is working has not been declared as an office attached to the Secretariat. The reasons assigned by the authorities for rejecting the petitioner's claim, therefore, does not require any interference.

The grant which has been given for such a long time is sought to be annuled and recovery on account of refixation has been directed under order dated 12.5.2015 issued by Finance Department which is impugned in the instant proceedings by way of I.A. No.4574 of 2015.

This Court would observe that the authorities have directed for recovery as if for all these many years petitioner was keeping aside the excess amount paid as salary and waiting



for the authorities to realize that they have committed a mistake and granted higher salary to the petitioner. The recoveries of excess paid for such a long period directed under order dated 12.5.2015 has an onerous effect on the petitioner as by now he would have spent the amounts paid. Recoveries are clearly unsustainable having regard to the decision of the Apex Court in the case of **State of Punjab & Ors. Vs. Rafiq Masih etc. 2015 (4) SCC 334**. This Court would, therefore, direct that the authorities would be at liberty to fix the petitioner's salary, emoluments as per his entitlement. No recovery, however, shall be made from the emoluments paid to the petitioner by the respondents under their own decision for such a long period.

With the aforesaid directions/observations the writ petition is disposed of.

(Madhuresh Prasad, J)

T.Kr./-

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