

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16097 of 2019

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Awadh Narain Pandey Son of Raj Deo Pandey, resident of Village and P.O. Ramgarhawa, Police Station- Ramgarhawa, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Deputy Secretary, Command Area Development Authority, Water Resources Department, Patna.
3. The D.D.C. cum Chairman, Gandak Command Area Development Authority, Muzaffarpur.
4. The Superintending Engineer, I and II, G.A.D.A. Muzaffarpur.
5. The Executive Engineer, Investigation and Planning Division, Gandak C.A.D.A., Bettiah, District- West Champaran.
6. The Assistant Engineer (Planning), Incharge Accounts, Gadak, C.A.D.A., Muzaffapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vashishth Narayan Mishra, Advocate Mr. Brij Kishor Mishra
For the Respondent/s	:	Mr. Harish Kumar (GP8)
For Respondent Nos. 3-6:	:	Mr. Shiv Sundaram, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 22-08-2019 Heard the learned counsel for the parties.

The petitioner has sought a direction to the respondent not to make any recovery from his pension amount in the light of the order dated 17.02.2016 contained in Memo No. 214, whereby the excess payment made to the petitioner earlier is sought to be recovered.

Learned counsel for the petitioner has submitted that such excess payment was not made on account of any



false projection of the case of the petitioner.

In any view of the matter, since the petitioner has retired from Class-III post, the excess payment which has been made not because of the fault of the petitioner, cannot be recovered (refer to ***State of Punjab & Ors. Versus Rafiq Masih [(2015) 4 SCC 334]***)

Mr. Bashishth Narayan Mishra, learned counsel for the petitioner has submitted that his case is squarely covered by the judgement dated 26.03.2018 passed in C.W.J.C. No. 6977 of 2016.

The learned counsel for Respondent Nos. 3 to 6, however, has submitted that the judgement dated 26.03.2018, referred to above, has been appealed against in L.P.A. No. 912 of 2018.

In view of the background facts and submissions advanced on behalf of the parties, this Court directs the petitioner to make a fresh representation before the Superintending Engineer, Command Area Development Circle, Muzaffarpur within a period of three weeks, who, on receipt of such representation shall, after looking at the



position of law and the facts, pass orders in accordance with law, within a further period of eight weeks of the receipt of such representation.

Till such time, there shall be no recovery from the pension of the petitioner.

With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

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