

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2849 of 2017

In
Civil Writ Jurisdiction Case No.8369 of 2008

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1. Mahanand Prasad Sinha, Son of Sri Mukund Lal, Resident of Village-Koshikapur, Police Station- Narpatganj, District- Araria.
 2. Dinesh Paswan, Son of Late Janak Paswan, Resident of Village- Indarpur Barhari, Police Station- Raniganj, District- Araria.
 3. Santsewi Indramani Kumari, D/o Late Baban Ravidas, Residents of Village-Purnia Court, Police Station- Khajanchihat, District- Purnia.

... .. Petitioner/s

Versus

1. Sri Arun Kumar Singh, S/o not known, the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. Pradip Paswan, S/o Not Known, the Chief Engineer, Water Resources Department, Government of Bihar, Purnia.
3. Binod Kumar Das, S/o Not Known, the Superintending Engineer, Water Resources Department, Government of Bihar, Canal Circle-1, Purnia.
4. Raghuvir Sharan, S/o Not Known, the Executive Engineer, Irrigation Division, Bathnaha (Irrigation Division No.1 Purnia has been merged in Irrigation Division, Bathnaha).
5. Nageshwar Prasad, S/o Not Known, the Executive Engineer, Irrigation Division, Katihar.
6. Dineshwar Kumar Singh, S/o Not Known, the Executive Engineer, Irrigation Division, Banmankhi.
7. Mahendra Chaudhary, S/o Not Known, the Executive Engineer, Irrigation Division, Araria.
8. Rana Surajdev Singh, the District Accounts Officer, Purnia.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bindhyachal Rai, Adv.
For the Opposite Party/s : Mr. Anjani Kumar, AAG- 4

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date : 13-03-2019

The writ petition was allowed on following terms:-

“In result, the orders dated 30.9.2012 and 30.5.2013 impugned at Annexures 9 and 10 in so far as it relates to petitioner no.1; the order dated



9.3.2010 impugned at Annexure-8 in so far as it relates to petitioner no.2; the order dated 31.1.2014 impugned at Annexure-14 in so far as it relates to petitioner no.7; the order dated 18.9.2014 impugned at Annexure-16 in so far as it relates to deceased petitioner no.9 and the order dated 5.8.2014 impugned at Annexure-18 in so far as it relates to petitioner no.10, cannot be upheld and are accordingly quashed and set aside.

The writ petition is allowed. Let the recovery so effected from the retiral benefits of petitioner nos.1, 2 and 10 as well as from the retiral benefits of deceased petitioner nos.7 and 9 be refunded to the petitioner nos.1, 2 and 10 as well as the legal heirs of the deceased petitioners nos.7 and 9 within a period of three months from the date of receipt/production of a copy of this order.

As a consequence of the order, these petitioners would be entitled to the salary which they were drawing on the date of passing of the impugned order and thus the difference of salary and other consequential benefits as found admissible to them should be calculated and be paid to them within three months from the date of receipt/production of a copy of this order.

The writ petition is allowed.”

It is because the order was not being complied that the contempt application is filed.

In between this period, certain amounts were refunded and certain amounts were sought to be recovered and one of such order has been placed on record by the respondent-opposite party no. 4 vide Annexure ‘K’ whereby in the process of implementation of the order passed by this Court on CWJC No.8369 of 2008 that it has transpired that a sum of Rs. 56,239/-



has been paid in excess to the petitioner.

Mr. Bindhyachal Rai, learned counsel appearing for the petitioner disputes this position and submits that it is on misconception that an issue of excess payment has been made when in fact whatever the payment is made to the petitioner is in tune with the admissibility. He submits that the order recalling the Assured Career Progression benefits and the order of recovery were quashed by this Court while allowing the writ petition and thus the payment has been made accordingly and there is no occasion for a recovery.

The position is explained by the opposite parties by filing 2nd supplementary show cause today at the instance of the opposite party no.4 and which at paragraph 3, states as follows:

“ 3. That in compliance of the court’s order dated 07.03.2019 this show cause has been filed and it is submitted that vide bill No.131 in the year of 2017-18 a total sanction amount of Rs.3,85,109/- including the refunded amount of Rs.2,87,721/- and after deduction of income tax Rs.21,000/- the rest amount of Rs.3,64,109/- has been sent to Treasury on 03.11.2017 for the payment and the Treasury Officer Araria after passing the bill had sent vide Token No. 2017/11/00110 Voucher No.P/2700/00006 dated 04.11.2017 to the bank and the same day the amount had been credited to the account of petitioner.”

In view of the position explained, no case of contempt remains. However in so far as the issue of excess



payment and recovery is concerned, I would allow the petitioner to contest the reasoned order passed by the opposite party no.4 bearing letter no.167 dated 11.02.2019 by filing an appropriate application before the appropriate forum.

While observing thus, I would also allow the petitioner to raise his claim, if any, which yet remains pending at the hands of the opposite parties and any such claim being raised by the petitioner would be considered and disposed of by the authority concerned within a period of three months from the date of its filing.

With the observation above, this contempt application is disposed of.

(Jyoti Saran, J)

Anjula/skpathak

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2019
Transmission Date	NA

