

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14096 of 2018

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Rajeshwar Singh, Son of Raghuni Singh, Resident of Village- Madhurapur,
P.O. Malikpura, P.S. Goraul, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of Home, Government of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General of Police (Head Quarter), Bihar, Patna.
4. The Deputy Inspector General of Police, Bihar, Patna.
5. The Inspector General of Police, Bihar, Patna.
6. The Principal Secretary, General Administration Government of Bihar, Patna.
7. The Principal Secretary, Finance Department Government of Bihar, Patna.
8. The Accountant General (A and E) Bihar, Patna.
9. The District Magistrate, Vaishali at Hajipur.
10. The Superintendent of Police Vaishali at Hajipur.
11. The District Provident Fund Officer, Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kaushal Kishor, Advocate
For the State	:	Mr. Ajay Kumar Sharma, AC to AG
For the Accountant General	:	Mr. Amar Nath Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 29-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Kaushal Kishor, learned counsel for the petitioner; Mr. Ajay Kumar Sharma, learned AC to AG for the State and Mr. Amar Nath Singh, learned counsel for the Accountant General.



3. The petitioner has moved the Court for the following relief:

“That instant writ application is being filed for issuance of writs in the nature of certiorari for quashing of office order of the Accountant General (A&E) Bihar Patna dated 30.01.2018 whereby and whereunder adjustment of amount has been made from P.P.O of the petitioner which has already earlier paid to the petitioner which was in excess of his entitlement and further give other consequential benefits accordance with provision of law.”

4. Learned counsel for the petitioner submitted that even if there may have been any payment made in excess of the entitlement of the petitioner, but after retirement, the same cannot be recovered. It was submitted that there was no fault or role of the petitioner in such payment and, thus, after retirement, the authorities cannot recover the amount.

5. Learned counsel for the State submitted that the writ petition is not maintainable as the order of adjustment is pursuant to the order by the authorities dated 23.12.2017, which has been brought on record in the counter affidavit by which the payment made to the petitioner while he was in service has been found to be in excess of his entitlement and, thus, ordered to be adjusted. Learned counsel submitted that without the substantive order being challenged, the consequential order cannot be assailed as has been held by the Hon’ble Supreme Court in **P. C. Menon v. A.**



Balakrishnan [AIR 1977 SC 1720] and Amarjeet Singh v. Devi Ratan [(2010) 1 SCC 417], the relevant being at paragraphs no. 24 and 25.

6. Faced with the situation, learned counsel for the petitioner submitted that he may be permitted to assail the order dated 23.12.2017 in a fresh proceeding.

7. In view thereof, the writ petition stands disposed off with liberty to the petitioner to assail the order dated 23.12.2017, by which recovery/adjustment has been directed to be made from his pensionary benefits, in accordance with law, before the appropriate forum.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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