

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4860 of 2019

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Deo Kumar Singh S/o Late Shiv Deni Singh, Resident of Village Adalpur
(Sector -B), P.S. Hajipur Town, Dist.-Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Deputy Inspector General of Police, Darbhanga
3. The Superintendent of Police, Samastipur at Samastipur
4. The Treasury Officer, Hajipur at Vaishali
5. The Accountant General, Bihar Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anil Kumar, Adv.
For the Respondent/s	:	Mr.Sheo Shankar Prasad (SC8)
For the Accountant General:		Mrs.Nivedita Nirvikar, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 23-06-2020 Heard Mr. Anil Kumar, learned counsel for the

petitioner, Mr. Sheo Shankar Prasad, learned S.C.8 appearing on

behalf of respondent Nos.1 to 4 and Mrs. Nivedita Nirvikar,

learned counsel for the respondent No.5 through Video

Conferencing.

The petitioner seeks following reliefs:

(I) For setting aside the pension payment order dated 18.10.2014 issued vide pension payment number 20141162535 whereby and whereunder Rs.2,09,022/- has been recovered from the admissible pension from the date 01.02.2012 to 31.07.2014 of the petitioner.

(II) For further directing the respondents to refix the pension of the petitioner as Hawaldar and to pay as the respondents have illegally fixed the pension of the petitioner in the pay scale of



Hawaldar instead of Jamadar.

(III) For further directing the respondents to refund Rs.3,72,379/- which has been wrongly recovered from the earned leave encashment of the petitioner.

For any other relief/relief(s) the petitioner may be entitled for.

Learned counsel for the petitioner submits that petitioner was appointed on the post of Sipahi on 22.05.1972 in Bihar Police. In the year 1986, the petitioner was promoted to the post of Hawaldar and posted in the district of Samastipur. The petitioner was again granted promotion to the post of Illiterate Jamadar and he withdrew the pay scale of Jamadar till 31.01.2012 i.e. till the date of his retirement but the pension of the petitioner was fixed in the scale of Hawaldar and not in the pay scale of Illiterate Jamadar.

The detailed counter-affidavit has been filed on behalf of respondent No.3-Superintendent of Police, Samastipur. From perusal of Annexure 'A', it appears that pension of the petitioner was fixed in the pay scale of Hawaldar. The petitioner claimed that since he was promoted to the post of Illiterate Jamadar and he got the annual increment, therefore, his pension should have been fixed in the scale of Illiterate Jamadar but from perusal of Annexure 'E', it transpired that the petitioner was promoted to the post of Hawaldar. Thereafter, the petitioner should have passed the literacy test of reading and writing Hindi. Without



passing the Hindi examination, the petitioner is not entitled to get annual increment. Accordingly, his pension was fixed in the pay scale of Hawaldar and it is ordered that the excess amount of payment on account of annual increment should be withdrawn. The excess amount of payment i.e. Rs.3,72,379/- was withdrawn from the retiral dues of the petitioner.

Learned counsel for the petitioner submits that petitioner has already received the entire amount of retiral benefits and the petitioner has got grievance for deduction on account of withdrawal of annual increment after promotion to the post of Illiterate Jamadar. There is no need of passing Hindi examination for Illiterate Jamadar, therefore, the writ petition may be disposed of with liberty to the petitioner to file representation before the respondent No.3-Superintendent of Police, Samastipur and Superintendent of Police, Samastipur be directed to dispose of the representation of the petitioner.

Having considered the submissions of both sides, it is apparent that the petitioner has already received the entire retiral dues but he is aggrieved by the order of the Superintendent of Police for withdrawal of annual increment after his promotion to the post of Illiterate Jamadar on account of non-passing of Hindi examination and his pension was fixed in the pay scale of



Hawaladar instead of Jamadar although the petitioner before his retirement got promotion to the post of Jamadar but he was not entitled to annual increment in the pay scale of Jamadar until he passed the examination of Hindi. Accordingly, I dispose of this writ petition with a direction to the petitioner that he shall file detailed representation about his entitlement for increment without passing Hindi examination and on such, the Superintendent of Police, Samastipur shall dispose of the representation of the petitioner within three months from the date of presenting the representation.

With the aforesaid direction, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

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