

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11263 of 2019

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Ram Kamakhya Singh Son of late Janak Singh, Resident of Village-Indragachhi, P.O.- Murali Bhada, P.S. Murli, District- East Champaran at Present Residing at Mo-Chhatauni Bazar, P.S. Chhatauni, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate, East Champaran at Motihari.
4. The District Education Officer, East Champaran at Motihari.
5. The District Programme Officer(Estab), East Champaran at Motihari.
6. The Deputy School Inspector, Motihari town, East Champaran.
7. The Treasury Officer, East Champaran, Motihari.
8. The District Provident Officer, East Champaran, Motihari.
9. The Accountant General, Bihar, Patna.
10. DDO Cum Headmistress, Mahavir Lalita Middle School, Motihari town (East Champaran).
11. Rajiv Ranjan Kumar Son of not known, Clerk, DPO(Establishment) office, East Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bajarangi Lal
For the Respondent/s : Mr.Prabhakar Jha (Gp27)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 17-06-2020 Heard learned counsel for the parties.

The grievance of the petitioner in the present writ application is that the respondents have arbitrarily recovered the amount of Rs. 97,550/- from the gratuity of the petitioner vide Annexure-10.

Vide Annexure-12 additional amount of the petitioner



has been recovered on account of non submission of charge of his school.

Learned counsel submits that the petitioner has retired on 31.07.2018 and he has taken no objection certificate. He further submits that the Apex Court has already issued direction in **Rafiq Masih (White Washer),etc.: 2015(1), PLJR (SC) 261=(2015) 4 SCC 334** that no recovery is permissible from the post retiral dues. Learned counsel submits that there is no fraud or misrepresentation.

Considering the fact that the petitioner has handed over charge and no objection certificate was also submitted by the petitioner and also considering the judgment of the Apex Court, the Court is inclined to allow the writ application. The order contained in Annexure-10 is quashed. The respondents are hereby directed to ensure payment of Rs. 97,550/- to the petitioner which was recovered vide Annexure-10. The petitioner should be restored 3 per cent which was stopped vide Annexure-12 within a maximum period of sixty days from the date of receipt/production of a copy of this order. .

The aforesaid 60 days time shall be utilized by the respondents in finalizing rest post retiral dues of the petitioner otherwise the petitioner shall be entitled interest @ 9 per cent



from the date of retirement till the date of actual payment.

With the aforesaid, the writ application stands
disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

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