

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9808 of 2019

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Hare Ram Choudhary, Son of Late Jageshwar Choudhary, Resident of
Village- Darhar, P.O. and P.S. Laheriasarai, Distt. Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna,
.
2. The Principal Secretary, Minor Irrigation Department, Government of Bihar,
Patna.
3. The Collector, Samastipur.
4. The Superintending Engineer, Minor Irrigation Division, Samastipur.
5. The Executive Engineer, Minor Irrigation Division, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shambhu Nath Jha
For the Respondent/s : Mr.S.S.P.Yadav (Sc14)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 16-06-2020 Heard learned counsel for the petitioner and the

Respondents.

The petitioner is aggrieved by the office order as
contained in Letter No. 845 dated 02.06.2018 (Annexure-2).

The petitioner retired on 31.03.2018. After retirement,
the respondents have decided to recover Rs.3,55,569/-.

Learned counsel for the petitioner submits that after
retirement of the petitioner, the respondents have decided to
recovered the alleged excess amount paid to him.

Referring to the judgment of the Apex Court in the
case of **State of Punjab vs. Rafiq Masih**, reported in (2015) 4



SCC 334, he submits that recovery after retirement is impermissible.

In the counter affidavit, stand has been taken by the respondents that petitioner was paid to the tune of Rs. 3, 55,569/- as excess, as pay fixation of the petitioner was found incorrect and is liable to refund the same.

Considering the judgment of the Apex Court in the case of **State of Punjab vs. Rafiq Masih** (supra), the Court is of the considered view that after retirement, the respondents have not justified in recovering the amount from the post-retiral benefits. However, liberty shall be available to the respondents to fix the post-retiral benefits as per entitlement of the petitioner. In case, the respondents have recovered any amount from the post-retiral benefits of the petitioner, the same should be refunded to the petitioner, as there is no fraud or misrepresentation has been committed by the petitioner.

The order as contained in Annexure-2 is hereby quashed.

The respondents are directed to make payment of entire post-retiral benefits to the petitioner within a maximum period of three months from the date of receipt/production of a copy of this order including Group Insurance etc.



With the aforesaid, the writ application stands allowed
and disposed of.

(Anil Kumar Upadhyay, J)

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