IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9375 of 2018

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Shrikant Sharan Shahi, S/o Late Kapildeo Singh, Resident of Village- Mirganj, P.O.+ P.S.- Wajirganj, District- Gaya.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
5. The District Education Officer, Gaya.
6. The District Programme Officer (Establishment), Gaya.
7. The Block Education Extension Officer, Wazirganj, Gaya.
8. The Accountant General, Bihar, Patna.
9. The Treasury officer, Gaya.
10. The District Account Officer, Gaya.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
For the Respondent/s : Smt. Shilpa Singh, GA-12
Ms. Abhanjali, AC to GA-12
For the Accountant General: Mr. Manish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

5 21-09-2020 Heard learned counsel for the petitioner and the respondents.

The petitioner has filed the present writ application for a direction to the respondents to pay pension and other post retiral dues.

The petitioner retired on attaining the age of superannuation on 30.09.2017.

On behalf of the respondents, counter affidavit has been filed.

Mr. Manish Kumar, learned counsel for the Accountant General, Bihar submits that authority slip has been issued and his pension has been fixed and has been paid lawful post retiral dues.

Learned counsel for the petitioner submits that after retirement of the petitioner, the respondents have decided to recover Rs.64,100/- and in fact they have recovered substantial amount.

It is clarified here that in view of the judgment of Apex Court in the case of **State of Punjab & Ors. Vs. Rafiq Masih**, reported in **(2015) 4 SCC 334** no recovery is permissible after superannuation and the decision of respondents to recover the alleged excess amount i.e. Rs.64,100/- cannot sustain. It is, accordingly, declared that the decision to recover the alleged excess amount is unsustainable. Official respondents are directed to strictly follow the judgment of Rafiq Mashi case (supra).

Considering the fact that the respondents have issued authority slip and substantially redressed the grievance of the petitioner except recovery of alleged excess amount after retirement, the writ petition is disposed.

While disposing of the writ petition, the respondents are directed to restore all the amount recovered from the petitioner within a maximum period of 60 days from the date of receipt / production of a copy of this order.

Additionally, if the petitioner has any other grievance, the respondents shall be obliged to address the additional grievance of the petitioner as to calculation and otherwise entitlement of post-retiral dues by a reasoned and speaking order within a maximum period of three months from the date of filing of such representation along with a copy of this order.

(Anil Kumar Upadhyay, J)

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