

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18823 of 2018

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Nandjee Mehta S/o Late Ram Naresh Singh, resident of Village + P.O.- Kastar
Mahadeo, P.S. Bikramganj, District Rohtas.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Old Secretariat, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector Cum District Magistrate, District- Bhojpur at Ara.
4. The Additional Collector Land Reform, District Bhojpur at Ara.
5. The Sub-Divisional Officer, Sadar, Ara, District- Bhojpur.
6. The Circle Officer Udwant Nagar, District- Bhojpur.
7. The Accountant General (A and E) Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Pranav Kumar, Advocate
For the Respondents	:	Mr. S.C.Yadav -GP15
For Accountant General	:	Mrs. Namrata Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 08-06-2020 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the

respondents.

The petitioner has earlier moved this Court in CWJC
No. 6474 of 2016. Paragraph nos. 2 to 4 of the order dated
08.09.2016 passed in CWJC No. 6474 of 2016 is quoted
hereinbelow for ready reference:-

*“2. A perusal of the order shows that the
petitioner is facing a trial for the offences under
Sections 7, 13 (2) read with Section 13(1) of the
Prevention of Corruption Act, 1988 for accepting
illegal gratification of Rs.3,500/-. In a separate
departmental enquiry on similar allegation, the
enquiry officer found the petitioner guilty. The*



disciplinary authority passed an order forfeiting the entire pension for life, including the amount of gratuity, earned leave, subsistence allowance during the period of suspension and other amount due.

3. I find that the forfeiture of retiral benefits such as leave encashment, gratuity, entire pension and that too for life is highly disproportionate to the misconduct proved. The forfeiture of all the retiral benefits, which are result of past service rendered by the petitioner, should not be ordered to be withheld on account of misconduct. The punishment imposed is highly disproportionate to the misconduct proved.

4. I find that the punishment imposed is harsh and unreasonable, therefore, the punishment is set aside with liberty to the Collector, Bhojpur, Ara to pass a fresh order of punishment after considering the gravity of charges, but keeping in view the fact that the petitioner has rendered substantial service to the State and the fact that the pension and the retiral benefits is not bounty but result of service rendered for the State. The Collector shall pass a necessary order within three months from the date a copy of the order is supplied to him.”

The writ Court has, therefore, held that forfeiture of entire retiral benefits is highly disproportionate to the misconduct and the Court remitted the matter to the Collector, Bhojpur, Ara to pass a fresh order. The Collector has passed the order dated 21/09/2017. This Court has held out that the decision to forfeit the entire retiral benefits is grossly misconduct, yet the Collector, Bhojpur has shown audacity in passing the same order which was quashed by the writ Court.

In ordinary circumstances, the Court used to remit the



matter back to the District Magistrate but having regard to the fact that earlier this Court remitted back the matter after holding that punishment of forfeiture of entire pension is grossly disproportionate to misconduct yet the Collector has passed the same order. There is tendency to uphold Institutional decision and Institutional bias is very common.

Considering the peculiar facts and circumstances of the case and particularly, having regard to the order dated 08.09.2016 passed in CWJC No. 6474 of 2016, the Court is constrained to quash the order dated 21.09.2017 and direct the respondents to revise the punishment. The order dated 21.09.2017 (Annexure-5) is quashed. The order of punishment is modified as forfeiture of 10% of pension instead of entire pension. Respondents are hereby directed to only forfeit 10% of the pension of the petitioner and the remaining 90% pension shall be paid to the petitioner within a maximum period of 90 days from the date of receipt/production of the copy of this order.

The writ petition is allowed in the manner indicated above.

(Anil Kumar Upadhyay, J)

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