IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9002 of 2021

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Vinay Kumar Srivastava, Son of Late Dr. Saligram Srivastava Resident of Village - Barawan, P.O. - Barawan, P.S. - Mirganj, District- Jaunpur, Uttar Pradesh - 222143.

... ... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Patna.
4. The Secretary, Law Department, Government of Bihar, Patna.
5. The Hon'ble High Court of Judicature at Patna, through the learned Registrar General.
6. The learned Registrar General, Hon'ble High Court of Judicature at Patna.
7. The Accountant General, Mahalekhakar Bhawan, Veerchand Patel Path, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Kumar Kaushik, Advocate
For the State : Mr. Suman Kumar Jha, AC to AAG-3
For the Accountant General : Mr. Rajnandan Pd., Advocate
For the High Court : Mr. Satyabir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE VIKASH JAIN)

Date : 26-10-2021

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition-

"(i) For issuance of an order, direction, or a writ of certiorari for setting aside the pension payment order

dated 11.04.2019 whereby and whereunder the pension of the writ petitioner has been revised and reduced from Rs. 21,845/- to Rs. 17,476/- in view of resolution of the Finance Department bearing Resolution No. 1529 dated 11.02.2019 which is inapplicable to the case of the petitioner who superannuated with effect from 21.10.2013 pursuant to the order dated 04.11.2013 passed by the Competent Authority whereby and whereunder, the petitioner was inflicted with the punishment of compulsory retirement from Bihar Sub-ordinate Judicial Service.

(ii) For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to give effect to the pension payment order dated 15.12.2014 whereby and whereunder the pension of the petitioner was fixed in view of the resolution of the Finance Department bearing Resolution No. 11859 dated 28.12.2011 whereby and whereunder it was resolved that the pension of Judicial Officers shall be fixed on the basis of the average emoluments drawn by them during the last 10 months of their service.

(iii) For issuance of an order, direction or an appropriate writ for staying the operation of the impugned pension payment order dated 11.04.2019 by which the pension of the petitioner has been reduced, during the pendency of the present writ application".

3. The short facts of the case according to the petitioner are that having been selected in the 24th Judicial Service (Junior Division) Competitive Examination, he was

appointed as Munsif by Notification contained in Memo No. 8399 dated 06.09.1997 (Annexure-P1). A disciplinary proceeding was initiated against the petitioner in which charges were proved leading to punishment by way of compulsory retirement in terms of letter dated 06.08.2013 and consequent Notification dated 04.10.2013 issued by the State Government (Annexure-P3). Based on his last pay drawn, the petitioner's pension was fixed on 15.12.2014 at Rs.21,845/- (Annexure-P7). Thereafter, the petitioner's pension was reduced in terms of PPO dated 11.04.2019 from Rs.21,845/- to Rs.17476/- (Annexure-P8). The petitioner represented in the office of the Accountant General as well as in the Finance Department for restoring his pension which was being paid to him before such reduction.

4. Learned counsel for the petitioner submits that the pension has been reduced from Rs.21,845/- to Rs.17476/- without issuance of any show cause notice in this regard. It is further stated that pursuant to his representation, it has been informed by letter dated 10.06.2020 by the Finance Department (Annexure-P10A) that such deduction has been made in the light of its clarificatory resolution dated 11.02.2019 (Annexure-P10B). A statement is made at the Bar on instruction that the petitioner continues to be paid his pension on the basis of the earlier PPO dated 15.12.2014 at Rs. 21,845/- (Annexure-P7). The fresh PPO

on the basis of reduced pension through recovery of the excess payment may be implemented at any time.

5. Learned counsel for the State and the High Court appear and have been heard. It is submitted that the writ petition is premature as on the own saying of the petitioner, no recovery is being made from the petitioner at present and pension is being paid without any deduction. It is further pointed out that the representation of the petitioner has also not finally been rejected as is evident from the aforesaid letter dated 10.06.2020 (Annexure-P10). It is also pointed out that fixation of reduced pension itself has not been questioned by the petitioner as being incorrectly computed.

6. Having heard the parties and on a consideration of materials on record, we are of the view that the ends of justice will be met by granting liberty to the petitioner to file a fresh representation before Principal Secretary, Finance Department, Govt. of Bihar, Patna (Respondent No. 3) for redressal of his grievance, within a period of four weeks from today. If any such representation is filed within the aforesaid period, the same shall be considered and disposed of on its own merits in accordance with law and after grant of an opportunity of hearing to the petitioner, expeditiously and in any event preferably within a period of twelve weeks thereafter.

7. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

(Rajesh Kumar Verma, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	28.10.2021
Transmission Date	N.A.