

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.200 of 2021

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Lila Kant Jha S/o Valeshawar Jha R/o Village- Beloun, P.O.- Nawada, P.S.-
Bahera, Darbhanga, Bihar-847201

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Recourse Department, Government of Bihar, Patna
2. The Principal Secretary, Home Department, Government of Bihar, Patna
3. The District Magistrate, Darbhanga
4. The Superintendent of Police, Darbhanga
5. The Accountant General Bihar, Patna
6. The Treasury Officer, Darbhanga
7. The District Account Officer, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Puneet Siddhartha, Advocate
		Mr. Aryan Sinha, Advocate
For the Respondent/s	:	Mr. M.N.H. Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 23-11-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has sought for following reliefs:

“(D) A writ in the nature of Certiorari or any other appropriate writ/s, order/s direction/s quashing the following:

(i) The Memo No. 1145 dated 11.07.2019 (hereinafter referred as ‘impugned order’) passed by the Respondent No. 4 wherein, Respondent No. 4 has ordered to deduct the excess financial benefit made to the Petitioner during his service from year 2006 to 31.03.2019 from his retirement benefits.

(ii) The Memo no. 2258 dated



16.11.2019 (hereinafter also referred as 'impugned order') passed by the Respondent No. 4, whereby and whereunder, the Respondent No. 4 has ordered Respondent No. 6 to deduct Rs. 7,61,792/- from the retirement benefit of the Petitioner.

(E) A writ in the nature of mandamus or any other appropriate writ/s, order/s direction/s for the following reliefs:

(iv) To pay the Petitioner Rs. 7,61,792/- along with the interest which has been illegally deducted from the retirement benefit of the Petitioner.

(v) To refix the pay scale and pension amount of the Petitioner which has been illegally reduced by the Respondent Authorities vide memo no. 1145 dated 11.07.2019.

(vi) To pay the arrears of salary and pension along with the interest after refixing the pay scale of the Petitioner.

(F) To any other relief/s to which the petitioner is found entitled to.”

3. Undisputed facts are that the petitioner has attained age of superannuation and retired from service on 31.03.2019 while holding the post of Constable. He has rendered service from the year 1982. The 4th Respondent noticed that petitioner has been extended excess financial benefits. After noticing the aforesaid alleged error, he has proceeded to pass impugned order dated 11.07.2019 without issuing notice to the petitioner. On this point, impugned order is hereby set aside.

The 4th Respondent is hereby directed to issue show



cause notice furnishing the details of excess financial benefits awarded in favour of the petitioner while he was in service. He is also directed to point out the relevant provisions of law under which the financial benefits awarded to the petitioner has been deducted. On receipt of such notice, the petitioner is hereby directed to submit his explanation along with relevant provision of law/ executive order that earlier fixation of financial benefits was in order. After receipt of petitioner’s explanation, the 4th respondent is hereby directed to pass a speaking order on each of the contention to be raised by the petitioner. Petitioner is also permitted to apprise the 4th respondent in respect of Apex Court’s decision passed in the case of *State of Punjab V. Rafiq Masih* reported in *(2015) 4 SCC 334*.

The above exercise shall be completed within a period of four months from the date of receipt of copy of this order.

If any recovery has been made, the same shall be refunded to the petitioner forthwith.

With the above observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.11.2021
Transmission Date	

