

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20089 of 2018

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Chhote Lal Prasad Son of Shivdhari Yadav Resident of Sanjay Gandhi nagar,
Road No. 8A Kali Mandir, Hanuman Nagar, Patna.- 26

... .. Petitioner/s

Versus

1. The Principal Secretary, Department Of Road Construction Govt. of Bihar, Patna.
2. The Special Secretary, Department of Road Construction, Government of Bihar, Patna.
3. The Joint Secretary, Department of Road Construction, Government of Bihar, Patna.
4. The Deputy Secretary, Department of Road Construction, Government of Bihar, Patna.
5. The In-charge Authority, Finance (P.C.C.) Department of Finance (P.C.C.) Bihar, Patna.
6. The Principal Secretary, Department of Finance, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. M. P. Bhartee Ms. Manisha Prakash
For the Respondent/s	:	Mr. Mahtab Alam

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL JUDGMENT

Date : 22-11-2021

Heard learned Counsel for the parties concerned.

2. The present writ application has been filed by the petitioner being aggrieved by the show cause notice, dated 23.03.2016, issued by the Deputy Secretary, Road Construction Department, Government of Bihar, whereby the petitioner has been directed to submit his reply as to why the excess payment received by the petitioner in course of his service period be not



recovered from him. The further grievance of the petitioner is that though earned leave for 300 days has been sanctioned, but the same has not been paid to the petitioner.

3. Learned Counsel for the petitioner submits that the petitioner had retired from the post of Executive Engineer, on 31.01.2014 and during his service, the petitioner was given two pay protections and after his retirement, the impugned show cause notice has been issued calling upon the petitioner to submit his explanation regarding recovery of the excess payment received by him. He next submits that in pursuance of the show cause notice, dated 23.03.2016, the petitioner has submitted his reply (Annexure 10) on 12.08.2018, but no final decision has been taken by the State as yet.

4. Insofar as the claim of earned leave of 300 days is concerned, learned Counsel for the petitioner, referring to paragraph 12 to the counter affidavit, submits that sanction order has already been issued for payment of the earned leave amount, equivalent to 300 days, to the petitioner. He also submits that the right, which has already accrued in favour of the petitioner, pursuant to grant of two pay protections, cannot be recovered after his retirement.



5. On the other hand, learned Counsel for the State submits that the writ application filed by the petitioner against the show cause notice (Annexure 8) is premature and till today, no such decision has been taken by the respondent authorities to recover the excess paid amount from the petitioner.

6. Insofar as the payment of earned leave amount is concerned, learned Counsel for the State submits that within a period of two months, the same shall be paid to the petitioner.

7. Since the petitioner has come against the show cause notice of recovery and no final decision has been taken regarding recovery of excess paid amount from the petitioner, in my opinion, the present writ application is premature insofar as the recovery part is concerned.

8. With regard to payment of earned leave amount is concerned, I find that the State, in its counter affidavit, has made a categorical statement that the amount towards earned leave for payment to the petitioner, equivalent to 300 days, has been sanctioned.

9. Accordingly, I direct the respondent no.1-the Principal Secretary, Department of Road Construction, Government of Bihar, to ensure payment of earned leave, equivalent to 300 days,



in favour of the petitioner within a period of two months from the date of receipt/production of a copy of this order.

10. With the aforesaid observation and direction, this writ application is partly allowed.

11. The parties will bear their own costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23-11-2021
Transmission Date	N/A

