

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15662 of 2022

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Sudhir Kumar Singh S/o Saryu Prasad Singh R/o- Behind G/5, G- Block,
Road No. 6-D, Gardanibagh, Sadhnapuri, Phulwari, P.S.- Gardanibagh,
District- Patna, presently posted in Primary School Jakkanpur, Anchal-
Golghar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Bihar, Patna.
3. The Director Primary Education, Bihar, Patna.
4. The District Magistrate, Patna.
5. The Regional Deputy Director of Education, Patna Division, Patna.
6. The District Education Establishment Committee, Patna through its Chairman, The District Education Officer, Patna.
7. The District Education Officer, Patna.
8. The District Programme Officer (Establishment), Patna.
9. The District Programme Officer, Primary Education and Sarwa Siksha, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Kumar, Adv.
For the Respondent/s : Mr. Subhash Chandra Mishra (SC16)

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

- 2 24-11-2022 1. The petitioner by way of this writ petition assails the order Annexure P/9 dated 27th August 2022, whereby a recovery has been effected against him under Rule 14(iii) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. Learned counsel submits that the C.C.A. Rules 2005 can be applicable only if the petitioner has committed any misconduct or misbehavior. In this respect, he has taken this



Court to the provisions of rule 19(d) of the Rules of 2005.

2. Learned counsel submits that the excess amount alleged to have been received was not on account of fault of the petitioner and he therefore cannot be punished for the same and the order is stigmatic in nature. Learned counsel submits that he filed an appeal against the order but the same was also rejected.

3. I have considered the submissions. A look at the order passed by the District Education Officer, Patna dated 27th Augusts 2022 which is challenged by the petitioner, shows that the allegation against the petitioner was of having received twice arrears of salary for the period from November 2008 to February 2015. However, after conducting a preliminary inquiry the question only related to the excess salary received from March 2009 to August 2011 which was found to be recoverable from the petitioner. A show cause notice was issued to him on 10.08.2022 as per C.C.A. Rules as to why the said recovery may not be made in terms of rule 14 of the Rules of 2005. After having received the reply, the authority reached to the conclusion that the said amount was recoverable and accordingly passed an order under Rules of 2005 for making recovery under Rule 14(iii) of the Rules of 2005.

4. A look at Rule 14 of the C.C.A. Rule 2005 reflects



that rule 14 lists the minor and major penalties which includes under 14(iii) “recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders”.

5. Thus, with respect to recoveries which may be effected on account of excess amount received by way of negligence or breach of orders will have to be done in terms of 14(iii) alone and not otherwise. In other words the State Government would not be allowed to make a simpliciter recovery without following procedure required for passing orders under Rule 14(iii). Thus it necessitates the Government to issue a show cause notice to the concerned person who has received excess amount by way of negligence or by breach of orders.

6. Admittedly, in the present case the petitioner received excess amount on account of negligence, may be of some other officer and apparently on account of breach of orders, because no person is entitled to arrears of selection scale twice for the same period. The period for which the amount has been held to be recoverable was found to be correct by the disciplinary authority after examining the reply to the show cause notice by the petitioner. In these circumstance the order of



recovery passed under Rule 14(iii) is found to be in accordance with law and justified.

7. The question raised by the petitioner of the order being stigmatic is also found to be without basis. If an order of recovery has been made under Rule 14(iii), while procedure is to be followed under C.C.A. Rule 2005, it may not necessary to be treated stigmatic in nature since the recovery is to be made on account of negligence or breach of orders and not on account of any misconduct or misbehavior on the part of the petitioner. The provision of 19(d) of Rules of 2005 will have no application.

8. The writ petition is found to be misconceived and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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