

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1407 of 2023

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Vimal Kumar Jha Son of Harichandra Jha Resident of Village and P.O. Jiraul,
P.S. Khirhar, District- Madhubani, the retired Khalasi-cum- Chaukidar, Public
Health Division, Dhaka, District- East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Public Health Engineering Department, Government of Bihar, Bishweshwaraiya Bhawan, Bailey Road, Patna.
3. The Engineer-in Chief -cum- Special Secretary, Public Health Engineering Department, Government of Bihar, Bishweshwaraiya Bhawan, Bailey Road, Patna.
4. The Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna.
5. The Superintending Engineer, Public Health Engineering Circle, Motihari.
6. The Executive Engineer, Public Health Division, Dhaka, District- East Champaran.
7. The Senior Treasury Officer, Madhubani.
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Singh, Advocate.
For the State	:	Mr. U. P. Singh, AC to SC-4.
For A.G. Bihar	:	Mrs. Nivedita Nirvikar, Sr. Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 01-08-2023

Heard Mr. Vijay Kumar Singh, learned counsel

appearing on behalf of the petitioner; Mr. U.P. Singh, learned

AC to SC-4 for the State and Mrs. Nivedita Nirvikar, learned

senior counsel for the Accountant General, Bihar.

2. Learned counsel appearing on behalf of the

petitioner submits that the petitioner had retired on 31.03.2022

while he was posted as Tubewell Khalasi in the Public Health

Sub-Division, Chakiya. The petitioner is aggrieved by the action



of the concerned respondent who has proceeded to recover Rs. 2, 07, 754/- from earned leave and Rs. 1, 10, 136/- from the pension and gratuity, allegedly on the ground that excess payment was made to the petitioner for the period from 20.06.2014 to 31.03.2022. Learned counsel submits that recovery after retirement from Class-III and Class-IV grade employee is against the law as laid down by the Apex Court in the case of **State of Punjab and Others Vs. Rafiq Masih (White Washer)** reported in **(2015) 4 SCC 334**. Learned counsel further submits that the Apex Court has recently held that any recovery on account of financial benefit granted to an employee on account of upgradation because of stagnation in service is illegal. In this regard, learned counsel has referred recent judgment passed by the Apex Court in the case of **Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.** reported in **(2023) SCC OnLine SC 496**.

3. Considering the fact that the petitioner is a Class-IV grade employee and he is not responsible for any excess payment made during the period from 20.06.2014 to 31.03.2022 as the excess payment is not on account of misrepresentation and misappropriation committed by the petitioner, in light of the law laid down by the Apex Court in the



case of **Rafiq Masih (supra)** and **Amresh Kumar Singh (supra)**, the order contained in Letter No. 584 dated 02.09.2022 (Annexure-7) is hereby set aside and quashed. If any amount has been recovered from the pensionary benefit of the petitioner, the same is directed to be returned back to the petitioner with statutory interest within a period of six weeks from the date of production of this order.

4. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	07.08.2023
Transmission Date	N.A.

