

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3205 of 2023

Narsingh Prasad Sonof Dharichhan Sah, Resident of Village-Bankatva, Ward No.9, P.O. Mathiya, P.S. Lauriya, District-West Champaran at Bettiah, the retired Khalasi, Public Health Sub-Division, Raxaul under Public Health Division, Motihari, 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, Motihari, District-East Champaran.
7. The Treasury Officer, East Champaran at Motihari, District-East Champaran at Motihari.
8. The Accountant General Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. S. Raza Ahmad, AAG- 5

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-08-2023

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

2. Petitioner is aggrieved by deduction of Rs. 81,104/- made from his dues under the head 'Leave Encashment'.

3. It is submitted by the petitioner's counsel that the impugned order dated 06-09-2022, bearing Memo No. 125, as



contained in Annexure P-5 to the writ petition, merely states that the recovery is being made since an excess amount of Rs. 81,104/- has been paid to the petitioner vide Officer Order dated 14-05-2022, as contained in Annexure P-4 to the writ petition, bearing Memo No. 66.

4. On a query being made, learned counsel for the State submits that the order dated 14-05-2022 (Annexure P-4), by which the petitioner has been granted benefits of financial progression under the Assured Career Progression (for brevity 'A.C.P.') scheme is by including the petitioner's services, even prior to his coming into regular establishment, and as a result, excess amount of Rs. 81,104/- was paid, which has been recovered.

5. The order dated 06-09-2022 (Annexure P-5) does not manifest any reason worth comprehension, which can be considered for ascertaining whether the recovery or deduction from the petitioner's dues under leave encashment is justifiable or not. Otherwise, also the order is unsustainable, as recovery from leave encashment could not have been made without complying with principles of natural justice, which obviously has not been done. The order dated 06-09-2022 (Annexure P-5) is therefore found to be unsustainable and is hereby quashed.



6. As a result of quashing of the impugned order dated 06-09-2022 (Annexure P-5), petitioner will be entitled to all consequential benefits.

7. Accordingly, writ petition stands allowed.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26-08-2023
Transmission Date	N/A

