

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13085 of 2021

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Bhuneshwar Prasad Singh S/o Late Aditya Narayan Singh, R/o Village -
Tungi, P.S. - Nawada, District - Nawada, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Department of Health,
Bihar, Patna.
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Director, Health Department, Govt. of Bihar, Patna.
4. The Accountant General, Bihar, Patna.
5. The Civil Surgeon-cum-In Charge Medical Officer, Nawada.
6. The Treasury Officer, Nawada.
7. The Assistant General Manager, State Bank of India, Centralised Pension
Processing Centre, 4th Floor, Administrative Office, Judge's Court Road,
Patna.
8. The Branch Manager, State Bank of India, Branch- Nawada.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 14025 of 2021

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Md. Yasin Ansari Son of Moinuddin Ansari, Resident of Mohalla-Bhadauni,
Near Rizvichowk, P.S.-Nawada, District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Bihar, Patna.
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Director, Health Department, Govt. of Bihar, Patna.
4. The Accountant General, Bihar, Patna.
5. The Civil Surgeon-cum-In Charge Medical Officer, Nawada.
6. The Treasury Officer, Nawada.
7. The Assistant General Manager, State Bank of India, Centralised Pension
Processing Centre, 4th Floor, Administrative Office, Judges Court Road,
Patna.
8. The Branch Manager, State Bank of India, Branch-Nawada.

... .. Respondents

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Appearance :

(In Civil Writ Jurisdiction Case No. 13085 of 2021)

For the Petitioner/s : Mr. Md. Kamaluddin, Advocate
Mr. Surendr Kumar Singh, Advocate
For the Bank : Mr. Kaushalesh Choudhary, Advocate
For the State : Mr. Anirudh Kumar Singh, AC to GP-25
(In Civil Writ Jurisdiction Case No. 14025 of 2021)
For the Petitioner/s : Mr. Md. Kamaluddin, Advocate
Mr. Surendr Kumar Singh, Advocate
For the Bank : Mr. Kaushalesh Choudhary, Advocate
For the State : Mr. Ajay Behari Sinha (G.A.-8)
Mr. Suryakant Kumar, AC to G.A.-8

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 02-02-2023 Heard learned counsel for the petitioners, counsel for
the Bank and counsels for the State.

The present writ petitions have been filed with main grievance to refund/return back the amount Rs.2,00,286/- of the petitioner namely, Bhuneshwar Prasad Singh and Rs. 1,78,566/- of the petitioner namely, Md. Yasin Ansari, which have been deducted from the retiral claims/salary of the petitioners without any show cause notice, proceeding or any other finding against them.

Counsel for the petitioners further prayed that the said amount has been deducted on frivolous ground with further request to pay cost of litigation and suitable compensation to the petitioners for loss and damages caused to them.

Counsel for the petitioners further submits that petitioner, namely, Bhuneshwar Prasad Singh was appointed as Basic Health worker on 16.05.1976 and retired from service on 31.01.2012 having clean service record and petitioner namely,

Md. Yasin Ansari was appointed as Basic Health Worker on 24.07.1979 and retired from service on 31.08.2014. It has been submitted that after retiring the petitioners were started getting their pension from February, 2012. Counsel further submits that petitioners have received a letter dated 08.08.2018 from the respondent In Charge Medical Officer, Primary Health Centre, Nardiganj vide letter No.410 stating therein that in the light of order passed in case no. 2/Lok(Swa.) 16/2016 Sri Ramanand Jha, it has been clarified that Basic Health Worker are entitled to Grade pay of Rs.2800/- only and further directed the petitioners to submit all the excess pension amount to the Government Treasury by way of Challan or else legal action shall be taken against them. After the said notice, the petitioners have filed their representations dated 15.09.2018 submitting that the matter of excess payment is in the jurisdiction of Treasurer and Bank and it does not fall under his jurisdiction. Counsel for the petitioners submits that A.G., Bihar vide letter dated 29.08.2018 has instructed to Treasury Officer, Nawada to regularize the excess payment of the amount and vide letter dated 08.11.2018, the Special Secretary, Health Department, Govt. of Bihar gave a specific direction to all concerned Civil Surgeon of Saran, Vaishali, Muzaffarpur, Jehanabad, East Champaran, Jamui,

Khagaria, Lakhisarai, Nawada and Arwal to stop all process with immediate effect for recovery of excess amount which mistakenly paid to the Basic Health Workers and in furtherance the respondent-Assistant General Manager, State Bank of India vide letter dated 11.10.2019 has directed the petitioners to return the extra pension amount that has been given to the petitioners, failing which the bank reserves the right to take the said money alongwith interest from the petitioners. Upon which the petitioners send the legal notice to the officials of State Bank of India. Petitioners again file another representations requesting to the Treasury Officer, Nawada for refunding their pension amount which has been deducted by the bank, when no action has taken place, thereafter petitioners filed the present writ petitions.

The counter affidavit has been filed by the Bank as well as from the State. It has been categorically submitted by the bank that the petitioners have already given their undertakings to the bank stating therein that *“I, the undersigned agree and undertake to refund or make good to the Bank any amount to which I am not entitled or any excess amount which may be credited to my account over that to which I am or would be entitled and agree that the amount of money when demanded by*

the Bank from me as due and payable to the Bank in respect thereof shall be conclusive as to the amount and shall be binding on me. I also hereby declare so as to bind myself and my heirs, executors and administrators agree and undertake to indemnify the bank from and against any loss costs charges, damages and expenses suffered or incurred by the Bank in so crediting my pension to my account under the scheme and to forthwith pay the same to the Bank and also irrevocably authorize the Bank to recover the amount in respect thereof by debit to my said account or any other deposit belonging to me in the hands of the Bank.”

Therefore, as per the above mentioned undertaking the Bank has been authorize to recover the excess payment made to the petitioners due to wrong calculation of their Grade pay. Counsel submits that the said undertakings are annexed as Annexures-R-6 and R-5 in both the petitions.

Counter affidavit filed by the State also justified the action made by the Bank because the instruction has been issued from the side of the State for correct calculation as per lawful Grade pay.

Counsel for the petitioners relied on the judgment of **State of Punjab vs. Rafiq Masih** reported in **2015 (4) SCC 334**

whereas counsel for the State/Bank relied on the judgment of **High Court of Punjab & Haryana and Ors vs. Jagdev Singh** (Civil Appeal No.3500 of 2006 decided on 29th July 2016 reported in **2016 (14) SCC 267** as well as on two recent decisions of this Court passed by the Co-ordinate Bench vide order dated 18.02.2020 passed in **CWJC No. 17322 of 2018** and order dated 05.08.2021 passed in **CWJC No.14346 of 2019 (Baleshwar Singh vs. State Bank of India & Ors. and Smt. Janaki Devi Vs. State of Bihar and others** respectively).

In the said judgments Hon'ble Supreme Court have categorically stated that in both cases undertaking was given by the petitioner which is annexed in the counter that petitioner would refund or make good any amount which is paid to him for which he is not entitled, is credited in his account in excess.

The finding of Division Bench of Hon'ble Supreme Court in case of **High Court of Punjab & Haryana and ors vs. Jagdev Singh**, it has categorical finding that the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The petitioners have furnished an undertaking in this regard and therefore, petitioners are bound by the said undertaking. It has also been observed that the said

recovery should be made in reasonable installments and the recovery has directed to be made in equated monthly installments spread over a period of two years.

Here in the present case the recovery has already been enacted upon.

In this view of the matter and particularly in the light of undertaking and the decisions given by the Division Bench reported in **2016 (14) SCC 267 (High Court of Punjab & Haryana & Ors vs. Jagdev Singh)**, I am not inclined to interfere in this matter and the present writ petitions are hereby **dismissed**.

(Dr. Anshuman, J.)

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