

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5943 of 2018

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Gulab Chandra Sah Son of Late Thekan Sah, Resident of village-
Krishnanagar, Ward No.22, Police Station- Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Government of Bihar,
Patna.
3. The Finance Commissioner, Government of Bihar, Patna.
4. The Special Secretary to the Government, Finance Department, Government
of Bihar.
5. The Chief Engineer, Flood Control and Water Management, Water
Resources Department, Birpur, Supaul.
6. The Chief Engineer, Irrigation Creation, Water Resources Department,
Supaul.
7. The Executive Engineer, Irrigation Division, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satish Chandra Jha-3, Advocate
For the Respondent/s : Mr.Anjani Kumar, AAG-4

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 27-09-2023 Heard the parties.

2. The petitioner has prayed for the grant of
following relief:

*(i) to quash the office order bearing Memo
No.200 dated 09.02.2018 (Annexure-1) (so
far it relates to the petitioner) issued under*



the signature of respondent No. 6, whereby and where under 1st and 2nd modified Career Progression Scheme (M.A.C.P) granted to the petitioner w.e.f. 18.03.2008, by the Respondent No. 5 vide his Letter No.1609 dated 14.06.2011 (Annexure-2) has been modified in terms of Letter No.10936 dated 27.11.2014 (Annexure-3) of Finance Department, Government of Bihar, Patna and thereby, 2nd M.A.C.P. granted to the petitioner in the grade pay of Rs. 4200/- w.e.f. 18.03.2008 has been withdrawn/ cancelled and excess payment made in lieu thereof has been directed to be recovered in complete violation of Principal of Natural Justice;

(ii) to direct the Respondent not to take any coercive action against the petitioner in terms of aforesaid office order dated 09.02.2018 during the pendency of writ application as no misrepresentation has been made and suppression of facts on the part of



*petitioner benefit Letter of No. in getting
M.A.C.P. 1609, the dated 14.06.2011.
(Annexure-2);*

*(iii) that the Hon'ble Court may be pleased to
grant any other relief or reliefs to the
petitioner.*

3. It is the case of the petitioner that before taking
decision he was never put on notice.

4. Categorical submission has been made in
paragraph-13 which read as follows:

*"That in the light of said letter, the
Respondent No. 6, without issuing
any notice to the petitioner and
without giving him to place his
defence, M.A.C.P. granted to the
petitioner 2nd has arbitrarily been
withdrawn/cancelled vide impugned
order as contained in Annexure- 1,
and thereby direction has been issued
to recover excess amount paid in lieu
thereof. Since impugned order has
been issued in complete violation of*



Principal of Natural Justice as such on this ground alone, the impugned order as contained in Annexure-1 is not sustainable in the eye of law and is fit to be set aside by the Hon'ble Court, so far it relates to the petitioner".

5. A counter affidavit on behalf of respondent no.7, the Executive Engineer, Irrigation Division, Saharsa is on record. The said paragraph-13 has been replied in paragraph-20 which read as follows:

"That with regard to the statement made in paragraph-13 it is stated that the correction is done as per conditions mentioned in office order letter No. 1609 dated 14.6.2011 of Chief Engineer, W.R.D., Birpur".

6. From the aforesaid facts, it is clear that no notice was given to the petitioner and/or brought on record by way of counter affidavit to show that the principle of natural



justice was followed before taking the decision.

7. In the circumstances, Memo No. 200 dated 9.2.2018 issued by the respondent no.6, the Chief Engineer, Irrigation Creation, Water Resources Department, Bihar, Patna so far as the same relates to petitioner Gulab Chandra Sah, it stands quashed.

8. The respondents are free to take fresh decision in accordance with law after putting the petitioner on notice.

9. The writ petition stands disposed of.

(Rajiv Roy, J)

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