

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16114 of 2021

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Raj Kishor Singh Son of Late Thakur Prasad Singh, resident of Village - Ishwar Patti, P.O.- Jhapha, P.S. Ahiyapur, District - Muzaffarpur, presently residing at New Area, Sikandarpur, P.S. Muzaffarpur Town, District - Muzaffarpur, the retired Revenue Officer, Muzaffarpur Municipal Corporation, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development Housing Department, Government of Bihar, Patna.
3. The Muzaffarpur Municipal Corporation, Muzaffarpur through the Municipal Commissioner.
4. The Municipal Commissioner, The Muzaffarpur Municipal Corporation, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Adv.
For the State	:	Mr. Ashutosh Kumar Upadhyaya, AC to SC-9
For Municipal Corporation:		Mr. Awadhesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 07-08-2023

Heard Mr. Vijay Kumar Singh, learned counsel appearing on behalf of the petitioner, Mr. Ashutosh Kumar Upadhyaya, learned counsel appearing on behalf of the State and Mr. Awadhesh Kumar, learned counsel appearing on behalf of the respondents.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner is aggrieved by the action of the Municipal Commissioner, Muzaffarpur on whose direction the



pension of the petitioner has been substantially reduced from Rs. 16,309 to Rs. 14,440/-. The pension of the petitioner is required to be fixed in pay scale of Rs. 4000-6000/- on the basis of his last pay drawn which is applicable to the post of Revenue Officer from which the petitioner retired on 31.03.2003. The action of the Municipal Commissioner by reducing the pension of the petitioner unilaterally is illegal. The petitioner was not given any opportunity, nor any order was passed in this regard communicating it to the petitioner.

3. Mr. Awadhesh Kumar, learned counsel appearing on behalf of Muzaffarpur Municipal Corporation submits that due to incorrect fixation of pension on the basis of incorrect nomenclature of the post the petitioner was incorrectly granted benefit. He further submits that no recovery has been made from the pensionary benefit, which was already granted to the petitioner before March, 2020. The Municipal Commissioner has acted in accordance with the Government Resolution No. 2723, dated 13.04.2017 and has rightly directed to reduce the pension of the petitioner.

4. Having considered the rival submissions made by the parties as well as the records available before this Court, the unilateral action of the Municipal Commissioner cannot be



sustained in the eye of law. The Municipal Commissioner was required to at least give prior information to the petitioner, who had retired in the year 2003 and was granted pensionary benefit including pension applicable to the post of Revenue Officer. The unilateral action of the Municipal Commissioner in reducing the pension of the petitioner cannot be sustained in the eye of law.

5. The Municipal Commissioner, Muzaffarpur is directed to give proper opportunity of hearing to the petitioner and pass a reasoned order in accordance with law taking into consideration the fact that the petitioner has not committed any misappropriation of public money by fixing the pension himself. The petitioner in no manner is involved in incorrect fixation of pension and any policy decision taken in this regard cannot affect the entitlement of the petitioner to the relief as claimed by him in the present writ petition. The Municipal Commissioner is directed to take final decision in the matter after considering several circular of the State Government considering the penal consequences on account of reduction after lapse of 17 years. The law is well settled in this regard. The petitioner if so advised, may file detail representation before the competent authority for his claim made in the present writ petition.



6. The Municipal Commissioner, Muzaffarpur is directed to take final decision within a period of six weeks from today.

7. With the above observation and direction the writ petition stands disposed of.

(Purnendu Singh, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

