

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9755 of 2023

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Mohammad Illiyash @ Md. Iliyash Son of Phida Husain, Resident of Juran Chapra, in front of Belaie Masjid, Post- M.I. T., P.S. Brahmpura, District -Muzaffarpur the retired Khalasi, Public Health Division, Muzaffarpur, District - Muzaffarpur.

... .. 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, Muzaffarpur, District-Muzaffarpur.
7. The Treasury Officer, Muzaffarpur, District -Muzaffarpur .
8. The Accountant General, Bihar, Patna.
9. The Senior Accounts Officer, Office of the Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Singh, Advocate.
For the Respondent/s	:	Mr.Arvind Ujjwal, SC-4.
For the A.G. Bihar	:	Ms. Ritika Rani, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 16-08-2023

Heard Mr. Vijay Kumar Singh, learned counsel appearing on behalf of the petitioner; Mr. Arvind Ujjwal, learend SC-4 for the State and Ms. Ritika Rani, learned counsel for the Accountant General.

2. Petitioner is aggrieved by recovery of Rs. 3,65,518/- from the total amount of gratuity payable to the



petitioner.

3. Learned counsel appearing on behalf of the petitioner informs this Court that on account of incorrect calculation made by the respondents themselves, the petitioner should not suffer and the action of the respondents with respect to recovery from the amount of gratuity on account of excess payment, from a retired Class-IV government servant is unwarranted, in light of the decision of the Apex Court in case of **State of Punjab & Ors. Vrs. Rafiq Masih & Ors., 2015 (4) SCC 334.**

4. Considering the aforesaid facts, the petitioner is directed to make a detailed representation along with the law laid down by the Apex Court and this Court.

5. In the meantime, the authorities must restrain themselves from recovering the excess amount, which has been deducted from the gratuity of the petitioner who was holding Class-IV post of Khalasi.

6. The concerned authorities must ensure to act in accordance with law as laid down by the Apex Court and must ensure to pay back the recovered amount in the account of the petitioner with interest within a period of six weeks from the date of this order.



7. As the order has been passed in the open Court, learned counsel for the respondents is directed to inform the Executive Engineer, Public Health Division, Muzaffarpur – respondent no.6.

8. Accordingly, Annexure-5 dated 08.12.2022 is set aside and quashed to the effect that it will have no force in any manner with respect to recovery from the gratuity of the petitioner.

9. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.08.2023
Transmission Date	N.A.

