

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11556 of 2023

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Renu Kumari Wife of Shri Raghwendra Sharan Karn, resident of Village - Janipur, Police Station - Nanpur, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Education Department, Government of Bihar, Patna.
3. The District Education Officer, Sitamarhi.
4. The District Programme Officer, (Establishment), Sitamarhi.
5. The Treasury Officer, Sitamarhi.
6. The Accountant General, Bihar, Patna.
7. The Senior Account Officer, Office of the Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ram Sagar Singh
For the Respondent/s : Mr.Jitendra Kr. Roy 1 (Sc13)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 18-09-2023

Heard Mr. Ram Sagar Singh, learned counsel appearing on behalf of the petitioner; Mr. Jitendra Kumar Roy 1, learned SC-13 appearing on behalf of the respondent and Mr. Ram Yash Singh, learned counsel appearing on behalf of the Accountant General.

2. Learned counsel appearing on behalf of the petitioner seeks to file a detailed representation in light of the judgment passed in CWJC No. 2783 of 2021 in case of Chandrakant and others which was heard along with other



analogous cases in which final judgment has been passed on 23.09.2022 as contained in Annexure-7.

3. Considering the specific submission made on behalf of the petitioner, the petitioner may file a detailed representation with regard to relief prayed for in the present writ petition before the District Programme Officer, Sitamarhi.

4. The District Programme Officer, Sitamarhi is directed to ensure to make payment of retiral dues in accordance with law and return back the amount which has been recovered amounting to Rs. 7,36,371/- from the petitioner has not misrepresented or misappropriated in light of the judgment passed by the Apex Court in case of ***Thomas Daniel v. State of Kerala, 2022 SCC OnLine SC 536***, the relevant paragraph is reproduced hereinbelow:

“9. This Court in a catena of decisions has consistently held that if the excess amount was not paid on account of any misrepresentation or fraud of the employee or if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recoverable. This relief against the recovery is granted not because of any right of the employees but in equity, exercising judicial discretion to provide relief to the employees from the hardship that will be caused if the



recovery is ordered. This Court has further held that if in a given case, it is proved that an employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, the courts may on the facts and circumstances of any particular case order for recovery of amount paid in excess.”

5. The above exercise is directed to be concluded within a period of four weeks from the date of communication of this order.

6. With the above observations and directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

minu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.09.2023
Transmission Date	

