

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5944 of 2018

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Rajendra Jha Son of Late Uma Kant Jha, Resident of Village- Bara, Police Station- Bihra, 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, Patna.
5. The Chief Engineer, Flood Control and Water Management, Water Resources Department, Birpur, Supaul.
6. The Chief Engineer, Irrigation Creation, Water Resources Department, Saharsa.
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.Vinay Kirti Singh, Sr. Advocate cum-GA-2
		Mr. Akhileshwar Singh, AC to GA-2

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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, 2nd and 3rd modified Career Progression Scheme (M.A.C.P) granted to the



petitioner w.e.f. 13.10.2007 and 9.7.2010 vide order bearing Memo No.1609 dated 14.06.2011 (Annexure-2) has been modified in terms of Letter No.10936 dated 27.11.2014 (Annexure-3) issued by the Finance Department, Government of Bihar, Patna and thereby, 2nd and 3rd M.A.C.P. granted to the petitioner in the grade pay of Rs. 4200/- and 4600/- respectively has been withdrawn/ cancelled and excess payment made in lieu thereof has been directed to be recovered in complete violation of Principal of Natural Justice;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-15 which read as follows:

"That in the light of said letter, Respondent No. notice to 6, without the issuing any the petitioner and without giving him to place his defence, 2nd and 3rd M.A.C.P. granted to the petitioner has arbitrarily been withdrawn /cancelled vide impugned order as contained Annexure-1, and thereby direction in has been issued to recover excess amount paid n 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 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 nos. 6 and 7, the Executive Engineer, Irrigation Division, Saharsa is on record. The said paragraph-15 has been replied in paragraph-25 which read as follows:

*"That in reply to the statement
made in para-15 of the writ
application it is stated correction
is done as per conditional
mentioned in office order Letter
No. 1609 dated 14.06.2011 of
Chief Engineer, Water Resources
Department, 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, Saharsa so far as the same relates to the petitioner, Rajendra Jha, 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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