

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.719 of 2023

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Nand Kishore Kumar @ Nand Kishore Singh S/o Kameshwar Prasad, Ward
No. 11, Near Nagar Palika, Salempur Barh, Barh, Patna, Bihar, Pin- 803213

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Dept. of Health, Govt. of Bihar, Patna.
3. The Secretary, Finance Dept., Govt. of Bihar, Patna.
4. The Secretary Labour Resource Dept., Govt. of Bihar, Patna.
5. The Under Secretary Labour Resource Dept., Govt. of Bihar, Patna.
6. The Director Medical Services, Govt. of Bihar, Patna.
7. The Treasury Officer, Secretariat Treasury, Dept. of Health, Patna.
8. The Accountant General, Govt. of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Dr. Kamal Deo Sharma, Advocate
		Mr.Tushar Vaibhav, Advocate
For the Respondent/s	:	Mr.Kamlesh Kumar, AC to SC-12
For the Accountant General:		Mr.Raj Nandan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 21-03-2023 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Accountant
General.

It is evident from the materials available on the record
that the order as contained in Memo No. 2528 dated 30.12.2021
(Annexure '3' to the writ application) has been passed to the
detriment of the petitioner without giving him any opportunity
to the show cause.

Learned counsel for the State is unable to demonstrate
from his counter affidavit that any opportunity of hearing was



given to the petitioner prior to passing of Annexure '3'. The fact is that the petitioner is occupying a Class III post and one of his contention is that in view of the judgment of the Hon'ble Supreme Court in the case of **State of Punjab Vs. Rafiq Masih (White Washer etc.)** reported in **(2015) 4 SCC 334** the payments made to him for a period of about five years mistakenly cannot be recovered.

In the given circumstance, while this court sets-aside Annexure '3' to the writ application on the ground of the same having been passed without giving an opportunity of hearing to the petitioner, the respondents are given liberty to pass a fresh order within a period of three months from the date of receipt/production of a copy of this order, after providing an opportunity to the petitioner to show cause.

The petitioner will have full opportunity to raise all such points which he may raise before the competent authority in his reply to the show cause notice.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

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