

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3292 of 2018

Uma Charan Rajak Son of Bullak Rajak Resident of Village- East Ashok
Nagar, Road No. 11, P.S. Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administrative Department, Govt. of Bihar,
Old Secretariat, Patna.
3. The Principal Secretary, Minor Irrigation Department, Govt. of Bihar,
Vikash Bhawan, Patna.
4. The Engineer-in-Chief, Minor Irrigation Department, Bisheshwariya Bhawan,
Bailey Road, Patna.
5. The Chief Engineer, Minor Irrigation Department, Sheikhpura, Patna.
6. The Superintending Engineer, Minor Irrigation Circle, Patna-1
7. The Executive Engineer, Minor Irrigation Division, Patna-1 near west side of
Patna High Court null null
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukul Prasad, Advocate
For the State	:	Mrs. Dimpal Kumari, AC to GP 11
For the A.G., Bihar	:	Mr. Chaitanya Swaroop, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 22-09-2023 Heard the parties.

2. The present petition has been filed for the following
reliefs:-

*(i) the issuance of an appropriate writ in the
nature of certiorari or any other writ or writs and
direction or directions for setting aside the order passed
by respondent no. 5 dated 19.01.2017 contained in
Gyapank 65 by which the benefit of the First Time Bound*



Promotion granted to the petitioner on 10.05.1988 vide letter no. 553 with effect from 12.12.1983 in the pay scale of Rs. 785-1135 had been withdrawn and had been granted the benefit of 1st A.C.P. from 16.01.2010 from the date of passing Accounts Examination vide Annexure- 1 and 2 of the present writ petition;

(ii) for quashing the letter no. 122 dated 25.01.2017 issued by the respondent no. 5 by which Rs.11,10,694/- (Rs. Eleven lakhs ten thousand six hundred ninety four only) has been deducted from the amount of the gratuity and the unutilized leave as contained in Annexure- 3 of the present writ petition.

3. As per the case of the writ petitioner:-

(i) he was appointed as Accounts Clerk and was working since 12.12.1973 and superannuated on 29.02.2016 from the office of the respondent no. 5;

(ii) he was granted the first time bound promotion by the letter no. 553 dated 10.05.1988 with effect from 12.12.1983 in the pay scale of 785-1135, which however, has been cancelled retrospectively by the respondent no. 5 by memo no. 65 dated 19.01.2017 (in the light of the circular of the Finance Department vide memo dated 30.12.1985) due to the non-



passing of the Accounts Examination;

(iii) in pursuant to the Annexure-1 of the present writ petition, the respondent no. 5 vide memo 122 dated 25.01.2017 shifted the first time bound promotion with effect from 16.01.2010 and accordingly issued the payment order;

(iv) in pursuant to the direction of respondent no.5, a sum of Rs. 11,10,600/-has been adjusted against the payment of the retiral dues of the petitioner i.e. gratuity and leave encashment vide memo 1897 dated 12.10.2017;

(v) the petitioner filed several representations before the respondents for redressal of his grievances but the respondents are sitting tight over the matter. The last one dated 30.01.2018 was sent by the registered post.

4. As the respondents failed to consider the representation of the petitioner, left with no remedy, the petition.

5. Heard the parties.

6. The case of the petitioner is that it is an admitted fact that he was granted first time bound promotion in 1988 effective 1983 which has been cancelled vide memo no. 65 dated 19.01.2017.

7. It is his further submission that the subsequent direction of the respondent no. 5 to adjust the sum of



Rs.11,10,600/- against the payment of retiral dues of the petitioner vide memo no. 1897 dated 12.10.2017 subsequent to the earlier order of 19.01.2017 could not have been passed as no notice was ever served upon him.

8. Despite the filing of the writ petition in 2018 after serving two copies to the office of the learned Advocate General, Bihar, Patna on 16.02.2018, no reply is on record.

9. This despite the fact that on 12.03.2018, the co-ordinate bench had directed the respondents to file counter affidavit.

10. In view of the aforesaid facts instead of keeping the case pending, it would be appropriate that the petitioner file fresh representation before the respondent no. 3, the Principal Secretary, Minor Irrigation Department, Bihar, Patna within eight weeks from today.

11. If such representation is filed, the Principal Secretary, Minor Irrigation Department, Bihar, Patna (respondent no. 3) shall be duty bound to pass a reasoned order under his own signature after taking into account all the facts incorporated in the representation.

12. The said order must be passed within next four months.



13. If the respondent no. 3 comes to the conclusion that the petitioner is eligible for the amount which has been arbitrarily deducted, the consequential benefits to flow in next two months.

14. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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