

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4972 of 2021

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Musai Mochi S/o Ram Sagar Mochi R/o Village- Bakhtiyarpur, P.O.-
Malinagar Via Pusa, P.S.- Chakmehsi, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Primary Education, Govt. of Bihar, Patna.
2. Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The Regional Deputy Director, Darbhanga Division, Darbhanga.
5. The District Education Officer, Samastipur.
6. The District Programme Officer (Establishment), Samastipur.
7. The Block Education Officer, Pusa, Samastipur.
8. The Treasury Officer, Samastipur.
9. The Head Master, Chinhit Madhya Vidyalaya, Harpur, P.O.- Harpur Via Pusa, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Namrata Mishra, Adv.
For the Respondent/s : Mr.Shankar Thakur, AC to GP 27

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 21-10-2024

Heard Ms. Namrata Mishra, learned Advocate for the petitioner and Mr. Shankar Thakur, learned Advocate for the State.

2. The petitioner upon being superannuated on 31.01.2018 from the post of Head Master, Rajya Madhya Vidyalaya, Harpur, Pusa, Samastipur has invoked the jurisdiction of this Court seeking a direction upon the respondents to extend full pension to him, which has been stopped since



September 2020 due to non issuance of No Dues Certificate as well as Last Pay Certificate by the authorities to the Treasury Officer, Samastipur.

3. A supplementary counter affidavit has been filed on behalf of the respondent no. 6. Categorical averment has been made that at the time of superannuation when the petitioner was holding the post of Head Master, he had handed over the charge on his superannuation to his successor Headmaster, but the excess advance amount withdrawn by him has neither been returned nor the vouchers with respect to the expenses of the amount taken by him has been furnished. Hence, handing over the charge of the official records could not be considered as complete. It is further averred that as per the materials available on record as also from the verification report, it suggests that an amount of Rs.1391173.96 was withdrawn by the petitioner under the Mid Day Scheme. In addition to this the petitioner being the Head Master of the said school has also withdrawn the advance amount under different heads, the total of which comes to Rs.1833424.05. The petitioner has been given ample opportunity but he failed to submit the necessary vouchers showing the expenses nor he returned the excess advance money withdrawn by him.



4. It is further averred that withdrawal of the funds under the Mid Day Scheme from the Bank account was done under the joint signature of the Head Master and the senior most teacher. The primary responsibility for ensuring proper use of the fund rests with the Head Master/Incharge Head Master himself and the petitioner being the Head Master was responsible for managing the financial operation and ensuring compliance with all the relevant guidelines as per letter No. 2558 dated 29.10.2013 issued by the Principal Secretary, Education Department, Government of Bihar.

5. Rejoinder to the supplementary counter affidavit has been filed. Referring to the averments made therein, learned Advocate for the petitioner contended that the enquiry was conducted by Three-Member Committee without giving any opportunity of hearing to the petitioner. The question of excess withdrawal under the Mid Day Scheme was made on the basis of complaint of present Head Master of the school. However, the respondent no. 6 has failed to bring any chit of paper to show that the petitioner had knowledge of the enquiry and had not appeared before the Three Men Committee. It is lastly contended that since the petitioner is not in possession of the vouchers suggesting the expenses incurred, therefore the



petitioner undertakes that he is ready to pay half of the alleged excess withdrawn amount. Instances have also been shown that in similar circumstance, the excess amount has been withdrawn proportionately by the Head Mater and the senior most teacher of the school. In order to fortify the aforesaid submission, Memo No. 801 dated 12.09.2015 and further Letter No. 625 dated 21.04.2013 have been brought on record, copy of which have been marked as Annexure-P/10.

6. Adverting to the aforementioned facts, it is contended that the case of the petitioner also may be sympathetically considered in view of the instances where the concerned respondents have taken a decision to realise the excess amount proportionately from the Head Master and the senior most teacher of the school, on whose joint signature, the alleged excess money has been withdrawn.

7. Having heard the contention of the learned Advocate for the respective parties and taking note of the fact that the petitioner superannuated in the year 2018 and now he is getting only provisional pension, the Court deems it fit and proper to direct the District Programme Officer (Establishment), Samastipur to consider the claim of the petitioner afresh in view of his undertaking and the aforementioned instances shown by the



petitioner and pass a fresh order on the point of realisation of the excess amount withdrawn by the petitioner with the joint signature of the senior most teacher of the school. The entire exercise must be completed within a period of eight weeks from the date of receipt/production of a copy of this order.

8. Suffice it to say that the pension of the petitioner shall be governed by the final outcome of the order passed by the concerned respondent.

9. The writ petition stands disposed off with the aforesaid observations and directions.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.10.2024
Transmission Date	

