

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.601 of 2024

In
Civil Writ Jurisdiction Case No.6869 of 2023

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Arun Kumar Pandey Son of Late Chandrika Pandey Resident of At- E 29,
Gandak Colony, Srinagar, Siwan, P.O. Siwan, Police Station Siwan, District-
Saran, PIN- 841226

... .. Petitioner

Versus

1. The State of Bihar through Shri Chaitanya Prasad, the Principal Secretary,
Water Resources Department, Government of Bihar, Patna.
2. Shri Pradeep Kumar Mandal, The Chief Engineer, Sinchai Srijan, Water
Resources Department, Siwan.
3. Shri Mukul Kumar Gupta, The District Magistrate, Siwan.
4. Shri Jyotindra Kumar, The Superintendent Engineer, Saran Canal Circle,
Siwan.
5. Shri Divyendra Kumar Jayant, The Treasury Officer, Siwan.
6. Sri Raj Kumar, the Accountant General, Bihar, Patna.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Alok Kumar, Advocate
	:	Mr. Pranav Kumar, Advocate
For the State	:	Mr. Rewati Kant Raman, Advocate
For the A.G. Bihar	:	Mr. Binod Kumar Labh, SC

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL ORDER

7 24-07-2024 1. This contempt petition has been initiated
against the respondents-opposite parties to punish them
suitably for the willful non-compliance and disobedience of
the order dated 03.11.2023 passed in CWJC No. 6869 of
2023.

2. This Court heard Interlocutory Application No.
01 of 2023 and during the course of arguments on
03.11.2023 recorded the contentions of the Learned counsel



for the parties, stayed all further proceedings as far as Letter No. 569 of 2023 dated 13.05.2023 is concerned.

3. The office order dated 13.05.2023 reads as follows:

“In view of letter no. 931 dated 22.12.2022, issued from this office, the excess payment of salary of Rs. 12,95,753/- (Twelve Laks Ninety Five Thousand Seven Hundred Fifty Three only) made to Shri Arun Kumar Pandey, Retired Steno-Typist is ordered to be recovered from the amount of unutilized leave salary and the amount of Gratuity payable to him.”

4. Admittedly, the said order was stayed by this Court.

5. I.A. No. 01 of 2023 has been filed to amend the prayer, which is as follows:-

“For issuance of a writ of Certiorari for quashing/setting the Office Order bearing memo no. 988 dated 20.05.2023 issued by respondent no.2 by which the application of petitioner for exemption from passing the Computer Competency Test upon attaining the age of 50 years has been rejected, and petitioner further prays for stay of the operation of order bearing letter no.569 dated 13.05.2023 issued by respondent no.3 by which the amount of Rs. 12,95,753.00 has



been directed to be recovered from pensionary benefits i.e. the leave encashment and Gratuity of the petitioner, without giving any notice/show cause affording opportunity of hearing to the petitioner."

6. The said I.A. was allowed. The present contempt petition is filed, challenging the letter/order dated 08.02.2023, issued by the respondents-opposite parties, wherein, Superintending Engineer, Saran Canal Circle, Siwan has specifically stated in that order, which reads as follows:

"Against the order of recovery by way of aforesaid letter. Shri Arun Kumar Pandey, Retired. Steno-Typist has filed a writ petition vide CWJC NO. 6869/2023. In the aforesaid writ petition the Hon'ble High Court Patna has passed an Oral Order, copy whereof has been supplied by this office vide letter no. 1232 dated 27.11.2023 (Photocopy attached as Enclosure-04 for perusal). The adjustment/payment of excess salary Rs. 12,95,753/-(Twelve Laks Ninety Five Thousand Seven Hundred Fifty Three only) from the amount of Gratuity Rs. 12,56,904/-(Twelve Laks Fifty Six Thousand Nine Hundred Four only) and the amount of unutilized leave salary, would be possible only after Judgment of the Court."



7. It is the contention of the Learned counsel for the petitioner that in view of the aforesaid order, the respondents-opposite parties have committed contempt of Court. As stated Supra, I.A. No. 01 of 2023 is filed only for the amendment of the prayer of the main Writ Petition, which was allowed by this Court. This Court have stayed the proceedings of recovery. The written order passed by Superintending Engineer, Saran Canal Circle, Siwan dt. 18.12.2023 disclose that the amount which has to be adjusted is subject to the result of the Writ Petition, which cannot be termed as the act of contempt.

8. The writ petition itself was filed for release of leave encashment as well as gratuity, as excess payment was made to the petitioner by way of salary to a tune of Rs. 12,95,753/-.

9. Initially, the writ petition was filed for a different prayer, but in view of the amendment of the prayer the relief is for issuance of Writ of Certiorari for setting aside the Memo No. 988 dated 20.05.2023, issued by respondent-opposite party No. 2 by which the application of the petitioner for exemption from passing the Computer



Competency Test upon attaining the age of 50 years has been rejected and further for stay of operation of the order bearing Letter No. 569 dated 13.05.2023 issued by respondent-opposite party No. 3 by which the amount of Rs. 12,95,753.00 has been directed to be recovered from pensionary benefits i.e. the leave encashment and Gratuity of the petitioner, without giving any show-cause affording opportunity of hearing to the petitioner.

10. Pursuant to the orders of this Court, the respondent-opposite party has not taken any further action except passing a speaking order that the recovery would be subject to the result of the Writ petition.

11. In view of the above discussion, this Court finds no merit in the Contempt petition and the same is dismissed as it devoid of merits.

(G. Anupama Chakravarthy, J)

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