

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5069 of 2023

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Siya Ram Singh Son of Late Bujhawan Singh, Resident of Village- Rasalpur,
Police Station- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Government of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The District Collector, Gaya.
4. The Block Development Officer, Amas, Gaya.
5. Smt. Awatulya Kr Arya S/o Sri Raghubansh Prasad, Resident of Shivganj, Shital Tola, Police Station - Town Thana, District - Bhojpur. Presently working as Block Development Officer, Amas, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Virendra Prasad, Advocate
For the Respondent/s : Mr. Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-12-2024

Heard Mr. Virendra Prasad, learned counsel
appearing on behalf of the petitioner and Mr. Md. Irshad,
learned AC to SC-1 for the respondents.

2. The petitioner in paragraph no. 1 of the present writ
petition has sought *inter alia* following relief(s), which is
reproduced hereinafter:

*"(i) For issuance of a writ in the nature of certiorari
for quashing the impugned order contained in Memo No. 281
dated 15.03.2023 issued by the Respondent Block Development
Officer, Amas, Gaya i.e. Respondent No. 4 illegally recovery
order issued of Rs. 1,41,186/- after retirement of the petitioner;
hence the Respondents Block Development Officer violating the
several judicial order passed by this Hon'ble Court and
judgment/order of Hon'ble Supreme Court.*

*(ii) That the Respondent No. 4 issued Memo No. 281
dated 15.03.2023 recovered the amounting of Rs. 1,41,186/- of*



salary and leave encashment."

3. Petitioner is aggrieved by the impugned order contained in Memo No. 281 dated 15.03.2023 issued by the Block Development Officer, Amas, Gaya- Respondent No. 4, by which, order of recovery of Rs. 1,41,186/- has been issued after the retirement of the petitioner.

4. Learned counsel appearing on behalf of the petitioner informs that the petitioner had retired on 30.04.2021, while he was posted as Lower Division Clerk at Amas Block Office, Gaya and his last pay drawn was Rs. 41,800/-, which is supported by the entries made in the service book of the petitioner. The pension of the petitioner was fixed on the said basis. It is the case of the petitioner that on the basis of alleged incorrect entry made in the Service book in respect of year 2017, while the petitioner was posted at Manpur Circle Office as fourth grade employee, the present Block Development Officer, Manpur, Aurangabad, has alleged in his counter affidavit that the petitioner, during the said period, had interpolated the records in his own handwriting and the custodian of the service book was the Circle Officer, Manpur. Learned counsel further informs that just after the retirement of the petitioner, the pension of the petitioner was sanctioned and the authority slip



was issued by the Accountant General, Bihar and the petitioner was retrieving regular pension till the order dated 15.03.2023 contained in Memo No. 281, which was passed illegally without verifying the records. The allegation is of interpolation of entry made in the service book can be said to be subjective in nature in want of forensic report in regard to the verification of handwriting of the petitioner is without jurisdiction. Learned counsel further submitted that moreover, the order of recovery contained in Memo No. 281 dated 15.03.2023 has been passed without affording opportunity to the petitioner to explain and the same is in violation of principle of natural justice, which cannot be sustained in the eye of law. On these grounds, learned counsel seeks interference of this Court.

5. *Per contra*, learned counsel appearing on behalf of the State submitted that there is no infirmity in the order dated 15.03.2023 contained in Memo No. 281 passed by the Block Development Officer, Amas, Gaya, however, considering the fact that the order has been passed without giving any notice of hearing to the petitioner, to that extent, it can be interfered.

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties and perused the counter affidavit filed on



behalf of the concerned B.D.O. (respondent no. 5), who is now posted at Manpur, Aurangabad has informed that while he was previously posted at Circle Office, Manpur, his basic salary was Rs. 37,200/-. The same is also entered in his service book and same contains his signature. Further allegation is that based on the salary slip entries were made, it was found to be interpolated and the handwriting appeared to be the handwriting of the petitioner. Those evidences have been brought on record as evidence by way of Annxure-A and B to the counter affidavit, which can only be inferred to be the subjective satisfaction of the respondent no. 5, who himself has become handwriting expert having ascertained the interpolation in the service book and proceeded to pass order contained in Memo No. 281 dated 11.03.2023 without jurisdiction.

8. The action of the respondent no. 5 can only be deprecated by this Court and such *malafide* action on his part without handwriting expert or forensic report cannot be sustained. The order contained in Memo No. 281 dated 11.03.2023 being without jurisdiction, is hereby, set aside, and quashed.

9. The pay scale applicable in the case of the petitioner can very well be verified in accordance with law.



10. The District Magistrate-cum-Collector, Gaya, is directed to call for the service particulars of the petitioner from the Block/Circle Office concerned and if it is found upon report of the handwriting expert or forensic science report that action is required in case interpolation is established and the interpolation appears to have been done by the petitioner or by any other staff, who was posted, he/they are directed to be proceeded in accordance with law.

11. With aforesaid observations/directions, the present writ petition stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	07.12.2024
Transmission Date	N/A

