

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12067 of 2012

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Sujay Prakash Sinha, son of Late Rajeshwar Prasad, resident of East Indra Nagar, Road No.2, Kankarbagh, Police Station -Kankarbagh, District and Town-Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Personnel and Administrative Reforms, Government Of Bihar, Old Secretariat, Bailey Road, Patna-800001
2. Bihar Institute of Public Administration and Rural Development, a Society registered under the Societies Act having its Administrative Office At 'Walmi Campus, Phulwarisharif, Patna-801505
3. The Deputy Director Administration, Bihar Institute Of Public Administration And Rural Development Walmi Campus, Phulwarisarif, Patna-801505
4. The Director General , Bihar Institute Of Public Adminstration And Rural Development Walmi Campus, Phulwarisarif, Patna-801505
5. Bihar State Information Commission Suchana Bhawan, Bailey Road, Patna-800015
6. The Bihar State Industrial Development Corporation Through Its Managing Director Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramvinay Prasad Singh, Advocate Mr. Shambhu Sharan Kumar, Advocate
For the State	:	Mr. Akash Raj, AC to GA-5
For the B.S.I.D.C.	:	Dr. Anand Kumar, Advocate Mr. Rajan Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 03-05-2024

Heard Mr. Ramvinay Prasad Singh, learned counsel

appearing on behalf of the petitioner; Mr. Akash Raj, learned

AC to GA-5 appearing on behalf of the State and Dr. Anand

Kumar, learned counsel for the Bihar State Industrial

Development Corporation.

2. Petitioner is aggrieved by order of recovery of



Rs. 2,62,712/- in view of the office order contained in Memo No. 155 dated 01.02.2011 issued by the Deputy Director, Bihar Institute of Public Administration and Rural Development, which is a society registered under the Societies Registration Act, 1860. It is the case of the petitioner that petitioner was deputed to Bihar State Scheduled Caste Cooperative Development Corporation and pay-scale of the petitioner was enhanced by giving the benefit of 5th Pay Revision treating equal with the Employees of Bihar State Industrial Development Corporation. Petitioner was posted on the post of Stenographer and was being paid the required pay-scale of Stenographer. The recovery order has been passed as contained in Memo No. 155 dated 01.02.2011 (Annexure-8 to the writ petition) on the ground that the financial upgradation as a result of grant of benefit by the Bihar Institute of Public Administration and Rural Development, where the petitioner was posted on deputation, will not be assumed to be granted by the Parent Organization being Bihar State Industrial Development Corporation.

3. Learned counsel appearing on behalf of the petitioner submitted that the case of the petitioner, who is a Class-III employee, is covered by law laid down by the Apex Court in the case of *State of Punjab & Ors. Vs. Rafiq Masih*



(White Washer) & Ors. reported in *(2015) 4 SCC 334* and has relied on paragraph no. 12 of the judgment.

4. The order contained in Memo No. 155 dated 01.02.2011 (Annexure-8 to the writ petition) cannot be sustained in the eye of law and no recovery can be made from the retired employee. Admittedly, the petitioner has retired on 31.01.2014. The writ petition has remained pending before this Court for nearly 12 years and the respondent/s having not given consideration to the law laid down by the Apex Court in case of *Rafiq Masih (Supra)*, the order of recovery contained in Memo No. 155 dated 01.02.2011 and consequential order contained in Memo No. 1007 dated 27.06.2012 are hereby set aside and quashed.

5. The petitioner, if so advised, may file a detailed representation before the Director, Bihar Institute of Public Administration and Rural Development.

6. The Director, Bihar Institute of Public Administration and Rural Development is directed to consider the grievance raised in the representation, if any, filed by the petitioner by granting relief(s) to the petitioner in light of law laid down by the Apex Court in case of *Rafiq Masih (Supra)* well within a period of six weeks from the date of filing of the



representation.

7. Accordingly, the present writ petition is disposed
of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	06.05.2024
Transmission Date	N/A

