

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20907 of 2012

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Ramparvesh Singh Son Of Late Ram Chandra Singh, Resident Of Mohalla-
Jaiprakash Nagar Teli Pokhar, P.S. Aurangabad Town, District- Aurangabad

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Panchayati Raj, New Secretariat, Vikash Bhawan, Bailey Road, Patna
2. The Deputy Development Commissioner-Cum-Chief Executive Officer, Zila Parishad, Aurangabad
3. Chairman, Zila Parishad, Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kishore Kumar Thakur, Advocate
For the State : Mr. Rajeev Shekhar, AC to GA 13

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 24-06-2024 Heard Mr. Kishore Kumar Thakur, learned counsel

 appearing on behalf of the petitioner and Mr. Rajeev Shekhar,

 learned AC to GA 13 for the State.

2. It it is the case of the petitioner that recovery order dated 30.08.2011 has been passed after superannuation of the petitioner with effect from 31.05.2011. Statement has been made that the amount of loss enumerated, for which the petitioner has been alleged to have defalcated, while he was posted as cashier, was already deposited by him on 09.06.2004 itself. It has been claimed by the petitioner that the amount having been deposited back, no penalty order could have been passed, as the same also finds reference in the cash register.



These facts have not been taken into consideration by the disciplinary authority. It has been averred that the impugned order dated 30.08.2011, directing the petitioner to deposit Rs.3,10,200/- is also not in accordance with the law laid down in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer) etc.**, reported in **2015(4) SSC 334**.

3. A counter affidavit has been filed on behalf of the respondent no.1 and it has been stated that the order of recovery has been passed by Deputy Development Commissioner-cum-Chief Executive Officer, Aurangabad, as contained in letter no.216, dated 30.08.2011. The petitioner was employee of Zila Parishad, which is an elected body of Panchayat at district level incorporated in its name and seal under Section 62(2) of the Bihar Panchayat Raj Act, 2006, which empowers the Deputy Development Commissioner as controlling authority and he is competent to pass order and, as such, no infirmity has been made out against the penalty order. The respondents have also relied upon the department letter No.729 dated 05.03.2005 and has also relied on the provision of Bihar Panchayat Samiti and Zila Parishad (Service Conditions) Rules, 1964. There is no specific denial in the writ petition, save and except, that the petitioner has immediately deposited the amount, for which, he



has faced the penalty order.

4. Considering the aforesaid information and facts, contained in the pleadings made in the writ petition as well as the counter affidavit, I find it proper that petitioner may approach the Divisional Commissioner concerned for taking appropriate decision in accordance with law, considering the fact that penalty order has been passed after retirement of the petitioner and no evidence has been brought on record either by the petitioner or by the respondents to show that the petitioner was given any opportunity before the penalty order was passed.

5. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

Sanjay/-

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