

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2751 of 2011

Dayanand Das, son of late Bhikh Das Mahavir Nagar, Bpcl Road, P.S.
Phulwarisarif, Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through its Secretary Labour Resources Department,
Govt. of Bihar, Patna
2. The Principal Secretary Labour Resources Department, Govt. Of Bihar
,Patna
3. The Joint Secretary, Labour Resources Department Employment And
Training Govt. Of Bihar, Patna
4. The Director, Labour Resources Department ,Govt. Of Bihar, Patna
5. The Accountant General, Govt. Of Bihar, Patna
6. The Distt. Account Officer, Begusarai
7. District Employment Officer, Begusarai
8. Treasury Officer, Samastipur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Malendu, Advocate
For the Respondent/s : Mr. Anirban Kundu, SC 24

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 20-07-2024

In the instant writ petition, petitioner has prayed for the
following relief/reliefs:

*“i. Quashing the order dated 7.3.07
(Anx – 1), passed by the respondent no. - 3
whereby it has been ordered that 10% amount
from the pension of the petitioner, who
superannuated on 31.1.04 from the post of
Officiating Assistant Director (Special
Employment for Physically Handicapped), Labour
Resources Department, Bihar Patna, is deducted.*



ii. Quashing the order dated 17.3.09 (Annexure – 3) issued by the respondent no. -3 by which petitioner's Appeal has been rejected on technical ground.

iii. Quashing the order dated 18.1.11 (Annexure – 5) issued by the respondent no. 2 by which petitioner's review application has been rejected and affirmed the order dated 7.3.07 (Anx – 1).

iv. Directing the Respt. Authorities to repay the amount already deducted from the petitioner's pension under the impugned order which is 61,000/- (approx) with statutory interest.

v. Any other relief and reliefs which the petitioner may be found entitled to."

2. Petitioner while working as Assistant Director in the Labour Department, while exercising administrative jurisdiction, inadvertently, he had paid excess amount to one *Ram Sukhit Singh*, LDC. On that score, there was alleged to have financial loss to the State exchequer to the tune of Rs. 60,000/- (Rupees Sixty Thousand) approx. Based on this allegation, petitioner was subjected to disciplinary proceedings while framing charge memo on 02.09.2005. The inquiring officer had submitted report. Thereafter, second show cause notice was issued on 19.05.2006. In the meanwhile, petitioner has attained age of superannuation and retired from service on 31.01.2004. Penalty of withholding of 10



% of pension has been ordered by the Commissioner-cum-Secretary. Thereafter, he preferred appeal and revision in which order of penalty dated 07.03.2007 has been affirmed by the respondent authorities. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that imposition of penalty of withholding of 10 % of pension on permanent basis would be too harsh having regard to the fact that there are no financial loss to the State exchequer in the light of the fact that *Ram Sukhit Singh* who has been paid excess amount of Rs. 60,000/- (Rupees Sixty Thousand) is stated to have been returned to the State government by him. Therefore, at the best it is only a negligence insofar as alleged excess payment made to *Ram Sukhit Singh*.

4. *Per contra*, learned counsel for the respondents submitted that when there are financial irregularities, in such circumstances, no interference is warranted insofar as imposition of penalty order dated 07.03.2007.

5. Heard learned counsels for the respective parties.

6. The petitioner was subjected to disciplinary proceedings on the score that he had made excess payment to one *Ram Sukhit Singh*, LDC to the tune of Rs. 60,000/- (Rupees Sixty Thousand). It was already recovered from him by the respondents.



Nodoubt there is negligence on the part of the petitioner insofar as making excess payment and it is contrary to the relevant Rules. However, imposition of penalty of withholding of 10 % of pension on permanent basis with reference to the fact that petitioner has retired from service on 31.01.2004, in other words, for about 20 years the penalty order is in vogue.

7. Having regard to the fact that matter is pending consideration for the last about 13 years, it is not a case for remand, on the other hand, imposition of penalty of withholding of 10 % of pension on permanent basis shocks the conscious of this Court. Accordingly, order of penalty dated 07.03.2007 stands modified to the extent that withholding of 10 % of pension for a period of 10 years would suffice. In the result, order of penalty dated 07.03.2007 stands modified and so also appellate authority and reviewing authority orders dated 17.03.2009 and 18.01.2011 respectively.

8. The concerned respondent is hereby directed to recover dues of pension from 07.03.2007 to the year 2017 if it is not already recovered or deducted and restore the full pension with effect from 07.03.2017 and calculate dues of pension as on this day and the same shall be disbursed in favour of the petitioner.



9. With the above observation, writ petition stands allowed in part.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2024
Transmission Date	NA

