

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10651 of 2024

Mani Lal Son of Late Ramjee Laheri, Resident of Mohalla- Kazi Fatuchak,
Police Station- Barbigha, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Water Resource, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Water Resource, Government of Bihar, Patna.
3. The District Collector, Jamui.
4. The Chief Engineer, Water Resource Department, Bhagalpur.
5. The Superintending Engineer, Water Resource Sinchai Anchal 2, Jamui, District- Jamui.
6. Executive Engineer Irrigation Department, Irrigation Division No. 1. Laxmipur, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Akash Kumar Mishra, Advocate
For the Respondent/s : Mr. Asif Kalim, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 18-07-2024 Heard Mr. Akash Kumar Mishra, learned counsel

 appearing on behalf of the Petitioner and Mr. Asif Kalim,

 learned AC to AAG-12 for the State.

2. Learned counsel appearing on behalf of the
petitioner submitted that the petitioner was intimidated by
Memo No. 487/Laxmipur dated 08.04.2024 that he was paid a
sum of Rs. 2,79,154/- during his service period and that is
required to be recovered from his un-utilized earned leave in
lump sum one time.



3. Learned counsel further submitted that the petitioner had filed a representation before the authority that he is not at fault for any extra payment, which has been made during his service period and the same cannot be recovered from his pensionary benefit.

4. Considering the law laid down by the Apex Court in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer) etc.**, reported in **2015(4) SSC 334** and the petitioner has further submitted that he has already filed a detailed representation before the Executive Engineer, Irrigation Department, Laxmipur, Jamui, the Executive Engineer, Laxmipur, Jamui (Respondent No. 6), is directed to consider the representation of the petitioner, in the light of the law laid down by the Apex Court in the case of **Rafiq Masih** (supra). As evidently for whatever extra amount which has been paid by petitioner during his service, at no point of time, the petitioner was issued any notice that it is “he”, who has misappropriated by drawing salary more than what was required.

5. The Apex Court has deprecated such action on the part of the authorities concerned after the retirement of the employee particularly in respect of Class-III and Class-IV employee equivalent to Grade-C and Grade-D.



6. Accordingly, the present writ petition is disposed of directing the respondent concerned to take appropriate steps within a period of six weeks from the date of passing of this order and do not withheld the pension. The other pensionary benefits are also required to be released within a further period of two months.

(Purnendu Singh, J)

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