

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7659 of 2018

=====

Ram Bilas Mahto Son of Sri Ram Bahadur Mahto, resident of Gandak Project Colony, Jitwarpur Chouth, P.S.- Samastipur Muffasil, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Principal Secretary, Water Resources Department, Bhair, Patna.
3. Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur.
4. Er. Virchandra Thakur, Superintending Engineer, Flood Control Circle, Samastipur
5. Executive Engineer, Flood control Division, Dalsingsarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Anjani Kumar -Aag4

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 08-04-2024 Counsel for the petitioner and counsel for the State

are present.

2. This writ petition has been filed for quashing of the Office order contained in letter no. 815 dated 22.07.2017 (Annexure-P/7) issued by Respondent No. 4 by which the said authority has illegally withheld five annual increments of the petitioner with cumulative effect and further for quashing of the office order contained in Letter No. 822 dated 22.07.2017 (Annexure-P/8) issued by Respondent No. 4 by which the said authority has illegally fixed the salary of the petitioner at reduced rate pursuant to the aforesaid order and ordered for



recovery of excess payment and also for quashing of the office order contained in Letter No. 862 dated 31.07.2017 (Annexure-P/9) issued by Respondent no. 4 by which the said authority has illegally withheld the monetary benefit of promotion/ACP granted by the higher authority, i.e. Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur vide office order contained in Memo No. 1927 dated 15.06.2005 and Memo No. 543 dated 28.02.2007 and has ordered for recovery of so called excess payment from the salary of the petitioner in five installments. Further prayer has been made to direct the respondents to refund the amount which has been illegally recovered from the salary of the petitioner pursuant to the aforesaid office orders illegally passed by Respondent No. 4 and also to grant any other relief or reliefs to which the petitioner is entitled for.

3. Counsel for the petitioner submits that *prima-facie*, the entire order under challenge is non jurisdictional order due to the reason that the petitioner was working as Draftsman, Grade-II and for him the Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur is the appointing authority. Counsel further submits that since the original order itself is bad in law, therefore, all subsequent



orders are also bad in law.

4. Counsel for the State on the other hand submits that prior to his retirement, the petitioner has filed representation (Annexure-P/9) before the Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur which is still pending and no decision has been taken as yet at the level of his Office. Therefore, without deciding this case on merits, let Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur be directed to pass order on the representation of the petitioner i.e. Annexure P/9 within the specified time period.

5. Upon the specific query from the counsel for the petitioner that whether appointment letter is there with him, he submits that appointment letter is presently not available with him.

6. In this view of the matter, this Court hereby directs the petitioner to file a fresh representation before the Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur raising all his claim which he has raised in the present writ petition including non jurisdictional order within 30 days and the Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur i.e.



Respondent No. 3 is directed to pass order on the representation of the petitioner within 90 days thereafter.

7. If the Chief Engineer finds that grievance of the petitioner is correct then in that case he shall set aside all the orders and provide all consequential benefits associated with the petitioner within 60 days, thereafter.

8. Accordingly, this writ application is disposed off.

(Dr. Anshuman, J)

Sunnykr/-

U			
---	--	--	--

