

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15726 of 2012

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Satyadeo Thakur, S/O Late Ghattan Thakur, R/O Village- Pipra Hari, P.S.-
Supaul, District- Supaul

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Water Resources Department, Governemnt Of Bihar, Patna
3. The Chief Engineer, Water Resources Department, Birpur, Supaul
4. The Superintending Engineer Eastern Embankment Circle, Saharsa
5. The Executive Engineer, Eastern Embankment Division, Supaul
6. The Treasury Officer, Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha-3, Advocate
Mr. Shambhoo Kumar Suman, Advocate

For the State : Mr. Sitaram Yadav, GP-16

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 02-05-2024 Heard Mr. Satish Chandra Jha-3, learned counsel

appearing on behalf of the petitioner and Mr. Sitaram Yadav,

learned GP-16 for the State.

2. The petitioner has prayed for following relief(s) in

paragraph no. 1 of the writ petition:

"a. To quash the office order bearing letter no 557 dated 05.05.2012 (Annexure-1) issued under the signature of Respondent no. 5 whereby and where under the pay scale of the petitioner has been modified incorrectly at the fag end of his service that too, said office order has been issued in complete violation of principle of natural justice.

b. To quash the consequential office order



bearing letter no 900 dated 29.6.2012 (Annexure-2) issued under the signature of Respondent no-5 whereby and where under, after re-fixation of salary of the petitioner vide office order bearing letter no 557 dated 05.05.2012, Rs 2,32,837.00 has been directed to be recovered at once from the pensionary benefit of the petitioner, as aforesaid order has also been passed in complete violation of the principle of natural justice and one days before, from the date of retirement of the petitioner.

c. To direct the respondents not to recover any alleged excess amount, which was rightly paid to the petitioner in lieu of salary, from his pensionary benefit, during the pendency of the writ petition.

d. That the Hon'ble Court may be pleased to grant any other relief or reliefs to the petitioner as this Hon'ble Court may think it proper in the present facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioner submits that petitioner being Class-III employee, had not misrepresented or had suppressed any fact. The incorrect calculation was made by the Executive Engineer and, as such, the petitioner cannot suffer. The order of recovery contained in Letter No. 900 dated 29.06.2021 (Annexure-2 to the writ petition) is not sustainable in the eye of law, considering the law laid down by the Apex Court in the case of ***Sahib Ram vs. State of Haryana and Ors.*** reported in ***1995 Supp (1) SCC 18.*** Learned counsel in these backgrounds, seeks for quashing of Letter No. 557 dated 05.05.2012 (Annexure-1 to the writ petition) and Letter No. 900 dated 29.06.2012 (Annexure-2 to the writ petition) and for filing of the detailed representation



before the Chief Engineer, Water Resources Department, Birpur, Supaul, to consider his case to refund.

4. Learned counsel appearing on behalf of the State submits that if the petitioner files representation before the appropriate authority, his representation will be considered in the light of law laid down by the Apex Court.

5. Considering the aforesaid submission made on behalf of the petitioner, as well as, the respondent State and taking into consideration the law laid down by the Apex Court in case of *Sahib Ram (supra)*, which has been clarified in case of *State of Punjab & Ors. Vrs. Rafiq Masih (White Washer) & Ors.* reported in *(2015) 4 SCC 334*, the order contained in Letter No. 557 dated 05.05.2012 (Annexure-1 to the writ petition) and the order contained in Letter No. 900 dated 29.06.2012 (Annexure-2 to the writ petition) are hereby quashed.

6. The representation of the petitioner is required to be considered by the appropriate authority in light of law laid down by the Apex Court.

7. In case, the grievance of the petitioner for refund of the recovery amount is required to be rejected, then, in that case, the authority concerned must pass a reasoned order after giving due opportunity of hearing to the petitioner within a period of



three months.

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

(Purnendu Singh, J)

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