IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2913 of 2019

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Md. sahabuddin Son of late SK. Safiruddin Resident of Village- Bhijhara, P.O.- Kurum, P.S. Balia, Belone, Distt. Katihar.

... ... Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Department of Education, Govt. of Bihar, Patna
2. The Director, Primary Education Department, Govt. of Bihar, Patna Bihar
3. The District Education Officer, Katihar
4. The District Programme Officer(Establishment), Katihar
5. The Block Education Officer, Kadwa, Katihar
6. The Block Drawing and Dispersing Ofifcer, Kadwa Block Distt. Katihar
7. The Accoutant General (A and E) Bihar,Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Md. Helal Ahmad, Advocate Mr. Amaresh Kumar Singh, Advocate
For the State	:	Mr. Madhaw Prasad Yadaw (Gp 3)
For Accountant General	:	Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

7 22-09-2025 Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The instant writ application has been filed for quashing the order dated 28.09.2018, issued under Memo No. 2035 by the District Programme Officer (Establishment), whereby the salary paid to the petitioner for the post of Headmaster has been directed to be recovered from the petitioner's retiral benefits. The petitioner retired on 31.07.2017 from the post of Headmaster of Middle School, Kurum, Kadwa, Katihar. The order of recovery was passed in complete violation

of the provisions of law as well as the principles of natural justice, and during the pendency of the writ application, stay the impugned order dated 28.09.2018, issued under Memo No. 2035 by the District Programme Officer (Establishment).

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as a Matric Trained Teacher on 02.06.1981, and with passage of time, ultimately at the time of retirement, he was granted the pay scale of Trained Graduate Teacher 9300-34,800/-. Upon being appointed as a Graduated Trained Teacher, he became Headmaster in the year 2014 and remained Headmaster until his superannuation on 31.07.2017. It is further submitted that so long, the petitioner was not appointed as Headmaster, the requirement of passing Hindi Noting and Drafting was not applicable. The requirement was made applicable only after his appointment as Headmaster. There is nothing on record to show that any examination for Hindi Noting and Drafting was held by the respondents during the period from 01.08.2014 to 31.07.2017, when the petitioner served as Headmaster.

4. It is further submitted that since the deduction in pension is directed based on objections raised by the Office of the Accountant General, and admittedly, such objection was

raised after the petitioner's superannuation. Further, no proceeding was initiated under Rule 43(b) and 139(c) of the Bihar Pension Rules, 1950 to exercise deduction in pension by following the procedures prescribed under the Bihar Pension Rules, 1950.

5. Pursuant to the order dated 02.09.2025, the respondents were directed to seek proper instructions in the matter and file an affidavit regarding whether any departmental examination was held by them and whether the petitioner chose not to participate in such examination. Further, it was also to be clarified whether any proceeding under Rule 43(b) and 139(c) of the Bihar Pension Rules, 1950, was initiated to justify the action taken by the respondents with regard to deduction and recovery vide Annexure-1 of the writ application, issued by the District Programme Officer (Establishment), Katihar, as contained in Memo No. 2035 dated 28.09.2018.

6. From the impugned order dated 28.09.2018, it does not appear that any such consideration, which is required by law before passing such orders, in a case where employees have superannuated, was undertaken. Admittedly, from the records it appears that the concerned respondents did not carry out such exercise, and the office order dated 28.09.2018 was

issued without following these procedures, and despite the opportunities granted to bring on record materials regarding the legal questions framed vide order dated 02.09.2025, no such affidavit has been placed on record.

7. Considering the above and taking into account the materials available on record, the respondents have not observed the procedures prescribed under the service rules and applicable legislation, therefore, the order dated 28.09.2018 is hereby set aside. The respondents are directed to revise the pension to its original amount based on the last pay certificate at the time of superannuation, and pursuant to the interim stay, no recovery is said to have been made, and if any recovery has been made, the same shall be refunded forthwith.

8. In the result, the instant writ application stands disposed off.

(Ajit Kumar, J)

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