

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18551 of 2017

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Suresh Pawan S/o Sagar Paswan, R/o Village and P.O.- Muhabbatpur,
District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The District Program Officer, Establishment Muzaffarpur.
7. The District Account Officer, Muzaffarpur.
8. The District Education Officer, Muzaffarpur.
9. The Headmaster cum Drawing and Dispersing Other, Middle School, Sahebganj Balak, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kumar Singh, Adv
For the Respondent/s : Mr. Madhaw Prasad Yadav-Gp23

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

4 27-11-2025 Heard learned counsel for the petitioner and learned
counsel for the respondent-State.

2. In the present writ application, the petitioner has
prayed for the grant of following reliefs:

*(i) For quashing the letter dated
06.04.2017 issued under the signature of the
Respondent No-8 by which the signatory has
observed that the Petitioner has received Rs.
3,47,633 due to wrong fixation of salary and*



has ordered to recover the same.

(ii) For quashing the letter dated 20.10.2017 issued by the Respondent No- 6 by which he has ordered to deposit Rs. 3,47,633 which has been paid to him due to wrong fixation of his salary.

(iii) For issuance of such other appropriate order or direction which may deem fit and proper in the facts and circumstances of the present case.

3. The petitioner was initially appointed as a teacher on 14.07.1999 in Middle School, Malhariya under the district of Katihar on the pay scale of Rs. 975-1150/- which was later on revised to Rs. 3050-4590/-. On the ground that due to wrong fixation of salary, petitioner has been paid in excess of Rs. 3,47,633/-, vide Memo No. 560 dated 06.04.2017 a letter was issued by the respondent no. 8 saddling liability of Rs. 3,47,633/- on the petitioner and for recovery of the same, from May 2017 Rs. 6,000/- per month was deducted from the salary of the petitioner. This entire proceeding was carried out without issuance of any show cause notice to the petitioner.

4. It is submitted by learned counsel for the petitioner that the entire amount has been recovered for no fault of the petitioner and it is in gross violation of the resolution of the Human Resources Development Department, Government of



Bihar contained in letter no. 790 dated 29.07.2011 wherein it has been stated that excess payment of salary will not be recovered from the teacher. He, therefore, submits that the entire recovery which has been carried out against the petitioner is grossly illegal and, therefore, the letter dated 06.04.2017 followed by letter dated 20.10.2017 issued by respondent no. 8 and respondent no. 6 respectively by which liability of Rs. 3,47,633/- was saddled on the petitioner and ordered to be recovered, be set aside.

5. Per contra, learned counsel appearing for the respondent-State submits that the recovery is being carried out following the due process of law and, therefore, there is no need to interfere.

6. On a careful consideration of the resolution of the Human Resources Development Department, Government of Bihar contained in letter no. 790 dated 29.07.2011 (Annexure-A to the counter affidavit), it is evident that the State itself had taken a resolution/decision not to recover differences of the amount paid in excess to the teachers. The issue regarding recovery of excess payment of salary, is no longer *res integra* and it has been held by various judicial pronouncements that if payments have been made to the employees in excess without



their fault then the excess payment cannot be recovered from them.

7. In the light of the above lego-factual position, the letter dated 06.04.2017 issued by respondent no. 8 followed by letter dated 20.10.2017 issued by respondent no. 6 saddling a liability of Rs. 3,47,633/- and ordering for its recovery from the petitioner are illegal and, therefore, set aside. Since the entire amount has already been recovered from the petitioner, therefore, it is considered appropriate to direct the respondent-authorities of the State to refund/return the amount of Rs. 3,47,633/- to the petitioner with 6% interest per annum starting from 06.04.2017 taking into account the staggered recovery which was made by way of deducting Rs. 6,000/- per month from the salary of the petitioner. The entire amount alongwith calculation of interest shall be worked out and paid to the petitioner within three months from the date of this order.

8. The writ application is allowed in the aforesaid terms.

(Alok Kumar Sinha, J)

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