

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14100 of 2021

-
1. Ghanshyam Kumar Singh S/o - Bachha Prasad Singh Resident of Village - Lal garhyogia, P.S. - Sampur Bhatala, District- Sheohar.
 2. Sri Narayan Rao S/o - Late Satyanarayan Rao Resident of Mohalla - Ujjantola, Sagar Pokhara, P.S. - Town, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
3. Zila Parishad, West Champaran, Bettiah through Deputy Development Commissioner - cum - Chief Executive Officer, Zila Parishad, West Champaran, Bettiah.
4. The Deputy Development Commissioner - cum - Chief Executive Officer, Zila Parishad, West Champaran, Bettiah.
5. The Acting Chairman - cum - Vice Chairman, Zila Parishad, West Champaran, Bettiah.
6. The Additional Collector Magistrate-cum- Chief Executive Officer, Zila Parishad, West Champaran, Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siyaram Sahi, Advocate Mr. Abhishek Raj Kashyap, Advocate
For the State	:	Mr. Kumar Alok, S.C.-7
For the Respondent/s	:	Mr. Prince Kumar Mishra, Advocate Ms. Arunima Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

10 29-08-2025 Heard learned counsel for the petitioners, learned counsel for the State as well as learned counsel for the Zila Parishad.

2. The present writ petition has been filed for the following reliefs:-

(i) For issuance of an appropriate writ in quashing the Memo No. 115 dated 19.06.2017



issued under the signature of Deputy Development Commissioner-cum-C.E.O. Zila Parishad, West Champaran, Bettiah whereby the order of promotion of the petitioners dated order of 16.02.2015 has been cancelled with an Recovery of Salary which they have received on the post of Accountant-cum-Head Clerk from their post retiral dues contained in Annexure-3.

(ii) For issuance of an appropriate writ commanding the Respondent to pay post retiral dues i.e. gratuity and leave encashment taking into Account that the petitioners have superannuated from the post of Accountant-cum-Head Clerk from the Office of District Engineer and Zila Parishad, West Champaran, Bettiah.

(iii) For issuance of an appropriate writ commanding the Respondents to refund the amount so recovered from the gratuity of the petitioners with due interests.

(iv) For any other relief or reliefs for which the petitioners are entitled under law as well as on the facts of the case.



3. Learned counsel for the petitioners submits that the Memo No. 115 dated 19.06.2017 issued by the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, West Champaran, Bettiah cancelling their promotion granted on 16.02.2015, coupled with a recovery order from their retiral benefits is bad in law and deserves interference. The said order, as contained in Annexure-3, itself acknowledges that the petitioners, namely, Ghanshyam Kumar Singh and Sri Narayan Rao, had passed the Accounts Examination conducted by the Department of Revenue, Government of Bihar. However, the promotion was cancelled only on the ground that the said examination had not been conducted by the Zila Parishad.

4. It is the case of the petitioners that since the Panchayati Raj Department has not conducted any Accounts Examination since 1985-86, the examination conducted by the State Government ought to have been accepted as valid for promotion purposes. The action of the Zila Parishad in not accepting the same and cancelling their promotion is arbitrary and without jurisdiction.

5. It is further submitted that the Deputy Development Commissioner-cum-Chief Executive Officer had no jurisdiction to pass the impugned order, as such power vests only with the



Zila Parishad. There is also nothing on record to suggest that the Zila Parishad had ever taken a conscious decision authorising the Deputy Development Commissioner-cum-Chief Executive Officer to pass such an order.

6. The petitioners have specifically averred in paragraph nos. 11, 12 and 13 of the writ petition that before cancellation of their promotion, no notice or opportunity of hearing was afforded to them, as required in law, and further, that the cancellation order was never approved by the Chairman, Zila Parishad. These averments remain uncontroverted. It is also undisputed that the petitioners filed representations dated 05.07.2017 and 17.07.2017, respectively, against the order of cancellation, but the same have not been considered by the competent committee of the Zila Parishad.

7. Learned counsel for the Zila Parishad does not dispute the legal position that cancellation of promotion with recovery cannot be ordered without following due process of law.

8. In such view of the matter, the impugned Memo No. 115 dated 19.06.2017 is hereby quashed. No liberty is granted to the Zila Parishad to initiate fresh proceedings, as the petitioners have already superannuated on 31.01.2017 and



31.10.2016, respectively. The petitioners shall not be disturbed any further. The recovery made from their retiral benefits being without jurisdiction is directed to be refunded forthwith. The promotions accorded to the petitioners shall stand restored, and they shall be granted all consequential benefits within a period of four weeks from today.

9. With the aforesaid observations and directions, the writ petition stands allowed.

(Ajit Kumar, J)

Neha/-

U			
---	--	--	--

