

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9331 of 2018

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Jai Narayan Prasad S/o Late Kunj Bihari Singh, resident of Monkeypur, P.S. Kadirganj, Panditganj, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Engineer-in- Chief, Road Construction Department having his office at Vishweshsaraia Bhawn, P.
3. The Principal Secretary, Finance, Govt. of Bihar having his office at Old Secretariat, P.S. Sachiva
4. The Treasury Officer, having his office at Vishweshsaraia Bhawan, P.S. Shastri Nagar, District Pat
5. The Executive Engineer Road Division No. 1, Road Construction Department, District Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vikas Mohan, Adv.
For the Respondent/s : Mr.Raj Ballabh Prasad Yadav- AAG11

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 20-02-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. Learned Counsel for the petitioner submits that the present writ petition has been filed for quashing the impugned last pay certificate issued by the Executive Engineer R.C.D. Division-1, Jehanabad on 22.09.2015 by which amount of Rs.11,47,829.71/- (Eleven Lac. Forty Seven thousand eight hundred twenty nine and paise seventy one only) has to be adjusted from the petitioner as the temporary advance taken by him.



3. Counsel for the petitioner submits that the last pay certificate was issued after lapse of 30 years of retirement of the petitioner. He further submits that writ in the nature of mandamus may be issued directing the respondents to refund adjusted amount of Rs.4,27,000/- from post retiral amount as well as from arrears of salary of the petitioner with interest. He further submits that the entire voucher of the petitioner has been handed over to the Executive Engineer.

4. Counsel for the State raised preliminary objection and submits that the petitioner was appointed as Junior Engineer and during service tenure, a CBI case *vide* RC 7(A)/97 in bitumen scam has been lodged against him in which he was sent to jail and after release on bail, he joined on 04.04.2002, but his joining was rejected by the Executive Engineer, Road, Division No.1, Jehanabad awaiting his suspension order.

5. Counsel for the State further submits that the petitioner has filed earlier writ petition bearing C.W.J.C. No.10909 of 2015 for payment of his post retiral dues in which last pay certificate has been attached and mentioning has been made that the petitioner has taken temporary advance amount of Rs.11,47,829.71/-. He further submits that every advancement which has been handed over to the Junior Engineer, shall always



subject to adjustment and it is due to this reason, the dues has been shown against him.

6. Counsel further submits that in the counter-affidavit, it has come that no such documents have been provided by him to the Executive Engineer as well as it has been mentioned that the F.I.R. has lodged by the CBI, is still pending and any payment to the petitioner shall be subject to result of the criminal case.

7. After going through the pleadings, it transpires to this Court that the disputed question of facts has involved in this case which may not be decided by the Writ Court. As such, the present writ petition is hereby disposed off granting liberty to the petitioner to file Civil Suit on the disputed question of facts.

8. With the aforesaid liberty and observations, the present writ application stands disposed off.

(Dr. Anshuman, J.)

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