

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1431 of 2023

In

Civil Writ Jurisdiction Case No.3977 of 2018

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Chandradhan Sharma, Son of Late Sheo Ratan Sharma, Resident of Village-
Ghari, P.S.-Nasriganj, District-Rohtas (Sasaram)

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Home, Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Inspector General of Police, Crime Investigation Department,
Government of Bihar, Patna.
5. The Deputy Inspector General of Police Government of Bihar, Patna.
6. The Accountant General (A and E) Bihar, Patna.
7. The Superintendent of Police, Crime Investigation Department Government
of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Nandlal Kumar Singh, Advocate Mr. Manish Kumar, Advocate Mr. Rajeev Nayan, Advocate
For the Respondent/s	:	Mr. P.K. Verma, AAG-3 Mr. Sandeep Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 23-01-2025

We have heard Mr. Nandlal Kumar Singh, the

learned Advocate for the appellant and Mr. P.K. Verma,

the learned AAG-3 for the State.

2. The challenge in this appeal is to the order

dated 05.12.2023 whereby the learned Single Judge has



refused to interfere with the order of recovery of certain amounts from the appellant which was calculated as amount which was not payable to him.

3. The appellant, while working as a *Havildar*, was involved in a criminal case concerning the offence under Section 376 of the IPC. He was convicted for the offence and was sentenced for ten years on 22.12.2006. Based on the aforementioned conviction, he was dismissed from service on 08.02.2008.

4. In the Criminal Appeal preferred by him, a Bench of the High Court vide order dated 28.09.2011 stayed the conviction. On the strength of such stay of conviction of the appellant, the dismissal order was questioned.

5. The High Court in C.W.J.C. No. 18003 of 2010 issued a direction to the Inspector General of Police, CID, Bihar to consider the case of the appellant in view of the fact that he had reached the age of his superannuation.



6. The Inspector General of Police, CID, Bihar vide order dated 10.02.2014 rejected the prayer of the appellant for his reinstatement as the appeal against his conviction had not been disposed off.

7. The appellant thereafter again challenged the decision of the Inspector General of Police but it could not be sustained.

8. The LPA against such dismissal of writ petition (LPA No. 328 of 2024) was also dismissed. However, the appellant had been given the liberty to move the departmental authorities for review of the punishment of dismissal, in case he is acquitted by the Appellate Court in the pending criminal appeal.

9. After his acquittal, the appellant represented before the authorities seeking his reinstatement from the date of dismissal but that was rejected. However, it was found out that while the contest was pending consideration, the appellant had superannuated with effect from 13.01.2015.



10. A Bench of this Court in C.W.J.C. No. 8319 of 2016 finally adjudicated the claim of the appellant and held that he was entitled to be reinstated in service. A direction was issued to reinstate him to his post with effect from 08.02.2008. However, it was also clarified that in view of the decision of the Supreme Court in case of ***G.M. Tank vs. State of Gujarat & Ors.; (2006) 5 SCC 446***, the appellant would not be entitled to back-wages until his date of retirement but would be entitled to all his post-retiral benefits by treating his entire period until his retirement i.e. 31.01.2015 as continuous and the respondents would be under an obligation to calculate the post-retiral benefits of the appellant and make payments to him within a fixed period.

11. Based on the aforementioned decision, calculation was made and only in that context, a decision was communicated to him that an amount of Rs. 2,41,324/- would be recovered from the pension/gratuity of the appellant and that the appellant would be



paid only 90% of the provisional pension/ gratuity.

12. The appellant came before this Court again vide C.W.J.C. No. 3977 of 2018 seeking 100% pension and annulment of the direction of recovery of any amount from his gratuity on the ground that his reinstatement in service would have carried with it the incidence of full back-wages including the grant of MACP.

13. The learned Single Judge rightly rejected such plea holding that the entire claim of the appellant was based on the decision of a Bench of this Court in C.W.J.C. No. 8319 of 2016, referred to above, wherein the only direction was that he would be entitled to his post-retiral benefits by treating his entire period until his retirement i.e. 31.01.2015 as continuous.

14. The payment had been calculated for the period 08.02.2008 till 31.01.2015.

15. The recoveries are only to the extent of more payment having been made to the appellant.

16. Finding no flaw in the judgment of the



learned Single Judge, we do not find any reason to interfere with the same.

17. The appeal is dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Rajesh/Bibhash

AFR/NAFR	NAFR
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