

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.680 of 2025

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Mukhlal Paswan Son of Late Pravans Paswan, Resident of Village Kurthiya,
P.S. Began Gola, District- Buxar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Bihar, Patna.
2. The Principal Secretary, Finance Department, Patna, Bihar.
3. The Director General of Police, Bihar, Patna.
4. The Accountant General, Bihar, Patna.
5. The Superintendent of Police, District- Supaul, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha, Advocate

For the Respondent/s : Mr. Vishwambhar Prasad, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 11-09-2025 Counsel for the petitioner and counsel for the respondents are present.

2. From perusal of the reliefs sought in the writ petition, it appears that the petitioner has filed this writ petition for quashing the letter no. 1047 issued by Superintendent of Police on 22.07.2020 by which the recovery to the tune of Rs. 2,22,957/- has been directed to be recovered from the petitioner as against the excess amount which is said to have been received by the petitioner. The petitioner is a retired person, who retired from the post of Hawaldar from Department of Police, Bihar on 31.03.2020 from Supaul District, who is said to have



joined the Police force on 16.01.1982 in the District of Bokaro, Jharkhand as a Police Constable.

3. It has next been averred in the writ petition that at the time of retirement this petitioner was receiving pay to the tune of Rs. 56,900/- per month, but his pension has not been fixed in accordance with the amount which was received by him on the date of retirement. The Last Pay Certificate (LPC) to the effect is said to have been issued in his favour.

4. At this stage, counsel for the respondents submits that counter-affidavit has been filed in this regard and draws the attention of this Court to the paragraph no. 6 of the said counter-affidavit, wherein it has categorically been mentioned that after retirement of the petitioner, the verification of salary was done by Finance Wing in the District Supaul *vide* Suapul ziladesh no. 475 of 2020 and in the course of same, it was found that the petitioner has received the excess salary as against his actual entitlement. The amount which is said to have been received by the petitioner in excess was calculated by the Accounts Section of Office, Supaul *vide* Memo No. 489 dated 18.07.2020 and it was found that the petitioner has received an excess amount to the tune of Rs. 2,22,957/- (towards his salary).

5. From the above, it appears that without holding



any departmental enquiry, the said amount was quantified, which has been recovered from his pension benefits.

6. From the counter-affidavit which is said to have been filed, it is nowhere stipulated that any departmental enquiry as prescribed in law was ever adopted by them and the petitioner was given hearing before quantifying the said amount as it is not forthcoming from the contents of the counter-affidavit that there was any misrepresentation by this petition in grant the salary, which is said to have been paid in excess. Besides that, the respondents have also not averred in the counter-affidavit that petitioner was ever given notice before fixing the pay-scale of this petitioner, which according to them was wrongly fixed and the petitioner was ever put on notice that in case, if the amount was found to be in excess, the same shall be recoverable in terms of the Hon'ble Apex Court's decision in the case of ***State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.***, reported in ***(2015) 4 SCC 334*** and relevant portion of the above judgment is extracted here under:

“10. In view of the aforestated constitutional mandate, equity and good conscience in the matter of livelihood of the people of this country has to be the basis of all governmental actions. An action of the State, ordering a recovery from an employee, would be in order, so long as it is not rendered



iniquitous to the extent that the action of recovery would be more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer, to recover the amount. Or in other words, till such time as the recovery would have a harsh and arbitrary effect on the employee, it would be permissible in law. Orders passed in given situations repeatedly, even in exercise of the power vested in this Court under Article 142 of the Constitution of India, will disclose the parameters of the realm of an action of recovery (of an excess amount paid to an employee) which would breach the obligations of the State, to citizens of this country, and render the action arbitrary, and therefore, violative of the mandate contained in Article 14 of the Constitution of India.”

7. Considering the aforesaid facts, the exercise which has been done for recovery of the amount in question by the procedure adopted by holding the same to have been paid in excess, has been deprecated by the Hon’ble Apex Court in the case of ***Rafiq Masih (White Washer) & Ors. (supra)***.

8. Considering the above that there has been complete violation of procedure in issuing of impugned order and accordingly the impugned order directing the recovery is set aside and the respondents are directed to credit the said amount in account of the petitioner and further the fixation which is said to have been done in accordance with law is not interfered by this Court and the petitioner will continue to be paid the salary



in accordance with the said fixation.

9. Accordingly, the writ petition stands disposed of.

(Ajit Kumar, J)

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