IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2281 of 2023

CNR No. BRHC011096442022

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Ram Dular Sharma Son of Raghunath Prasad Singh, Resident of Ramkrishna Nagar, Ward No. 31, P.S. Ramkrishna Nagar, Sampatchak, Dist.- Patna. (Bihar)

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Police Station Shastrinagar, Patna.
2. The Engineer-in-Chief (Head Quarter), Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Police Station Shastrinagar, Patna.
3. The Superintending Engineer, East Bihar Circle, Road Construction Department, Government of Bihar, Bhagalpur.
4. The Executive Engineer, Road Construction Department, Government of Bihar, Road Division, Bhagalpur.
5. The Executive Engineer, Road Construction Department, Government of Bihar, Road Division No. 2, Gaya.
6. The Executive Engineer, Road Division, RCD, Sitamarhi.
7. The Asistant Engineer, Road Sub Division, Sabour, Bhagalpur.
8. Ram Dayal Sharma Fathers name not known to this Petitioner, the then Junior Engineer, Road Section, Sabour, Bhagalpur and presently residing at

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Yashraj Bardhan, Adv.
For the State : Mr. Binay Krishna, (SC-27)
Mr. Prasoon Shekhar, (AC to SC-27)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

4 27-10-2026 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for the following relief/s:-

"I. For issuance of appropriate writ or writs

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in the nature of Certiorari quashing the Order contained in Memo No. 6068, dated 10-10-2022 issued by Chief Engineer (HQ), Road Construction Department, Government of Bihar, Patna by which sum of Rs. 8,58,619.11(Rupees Eight Lacs Fifty Eight Thousand Six Hundred Nineteen and Eleven Paisa Only) has been ordered to be recovered from petitioner's Pension/Gratuity in pursuance of a departmental proceeding initiated vide Departmental Order No. 26-cum- Memo No. 915, dated 27-01-2006 by the Road Construction Department and later converted under Rule 43b, Bihar Pension Rules by the Letter dated 24-08-2015, for alleged irregularity committed by him while being posted as Junior Engineer, Road Division, Sabour, Bhagalpur whereby it was alleged that some materials were found deficient during physical verification whose cost was valuated at Rs. 8,58,619.11, on basis of a vague and inconclusive findings of the enquiry officer's report dt. 06.01.2021 which was unilateral and did not reach a definite conclusion and determination apart from being time barred and,

II. For issuance of appropriate writ or writs in the nature of certiorari quashing the vague, inconclusive and ex parte enquiry report dt. 06.01.2021 so given vide Letter No. 86, dt.

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06.01.2021 where the petitioner was not heard at all and there having been only reiteration of petitioner's earlier letters and representation, but no findings of facts, were recorded and neither any definite conclusion was drawn,

III. For issuance of appropriate writ or writs in the nature of certiorari quashing Letter dated 24-08-2015 converting departmental proceedings under Rule 43b, Bihar Pension Rules after calling the said letter from the respondents, and

IV. For issuance of direction in the nature of mandamus commanding the respondents for no deduction from pension and further to refund the amount of Rs. 3, 01, 575/- in total which were earlier deducted from his salary during years 2004-2006 illegally and arbitrarily and,

V. Any other relief or reliefs which the Hon'ble court may deem fit and proper in the facts and circumstances of the case."

3. Learned counsel for the State raised preliminary objection and submits that the petitioner has challenged the final order of the punishment against which appeal/review is preferable under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

4. As such, this Court without entering into the merit

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or demerit of the case only directs the petitioner to prefer appeal before the competent authority who shall pass order on the petitioner's appeal within 90 days. The said 90 days shall be counted from the date of appearance of all concerned before the Appellate Authority.

5. Delay, if any, in filing the appeal before the concerned authority is hereby directed to be condoned.

6. Accordingly, this writ petition stands disposed off. It is made clear that till disposal of the petitioner’s appeal, no recovery shall be made from the petitioner.

(Dr. Anshuman, J)

Divyansh/-

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