

IN THE HIGH COURT OF JUDICATURE AT PATNA

Ram Niwas Singh
vs.
State of Bihar and Others

Civil Writ Jurisdiction Case No. 15255 of 2015
1 September 2023

(Hon'ble Mr. Justice Mohit Kumar Shah)

Issue for Consideration

Whether recovery can be made after retirement when there is no fault on part of employee?

Headnotes

Service Law—recovery—petitioner was superannuated from service in the year 2008—during service he applied for home loan under the Scheme—loan was sanctioned to him before 2000—petitioner paid the loan with interest during service period.

Held: after retirement no recovery can be made from a retired employee, in case it is not on account of the fault of the concerned employee that such amount is due/outstanding for payment—principles of Natural Justice have not been complied with prior to taking action for making recovery from the petitioner—Department of the petitioner has already certified that the entire outstanding amount of house loan along with interest has stood paid and in fact a sum of Rs.1,494.00, has been paid in excess by petitioner—respondents are precluded from recovering any amount from the retiral benefits of the petitioner—directed to refund a sum of Rs.1,494.00 to the petitioner which was paid by him in excess—writ petition allowed.

(Paras 5 to 8)

Case Law Cited

State of Punjab and Ors. vs. Rafiq Masih (white washer) and Ors., (2015) 4 SCC 334—**Relied Upon.**

List of Acts

Service Law

List of Keywords

Recovery, Superannuation, retiral benefits, no recovery after retirement.

Case Arising From

From letter as contained in memo no. 6-85 dated 16.04.2015, issued by the Office of the Accountant General (A&E), Bihar, Patna.

Appearances for Parties

For the Petitioner: Mr.Rajeev Shekhar, Advocate; Ms.Abhanjali, Advocate.

For the State: Mr.Anirban Kundu, SC-24.

For the A.G.: Mr.Arun Kumar Arun, Advocate.

Headnotes Prepared by Reporter: Abhas Chandra, Advocate.

Judgment/Order of the Hon'ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15255 of 2015

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Ram Niwas Singh S/o- Late Raj Kumar Singh, resident of village Kandherpur, P.S.- Sandesh, Dist.- Bhojpur Arrah. At present residing at, House no. 26, Road no.1 A, Shivpuri, Behind A. N. College, Patna- 800023.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Old Secretariat, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Secretary, Department of Home, Government of Bihar, Patna.
5. The Joint Secretary, Finance Department, Government of Bihar, Patna.
6. The Under Secretary, Department of Finance , Government of Bihar, Patna.
7. The Superintendent of Police (E), Criminal Investigation Department, Government of Bihar, Patna.
8. The Deputy Superintendent of Police, Accounts Section, Criminal Investigation Department, Government of Bihar, Patna.
9. The Accountant General, Bihar, Patna.
10. The Senior Accounts Officer, the Office of the Accountant General, Bihar, Patna.
11. The Treasury Officer, Irrigation Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Shekhar, Advocate Ms.Abhanjali, Advocate
For the State	:	Mr.Anirban Kundu, SC-24
For the AG	:	Mr.Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 01-09-2023

1. The present writ petition has been filed seeking
the following relief(s):-

*“1.(i) To issue a writ in the nature of
Mandamus for directing the respondents to not
recover/deduct the amount of Rs. 9521/- on*



account of the surplus/additional interest charged @ 2.5% from the petitioner's pension account against the House Building Advance in an arbitrary manner because the principal amount along with interest has already been paid by the petitioner on due date.

(ii) To issue a writ in the nature of Mandamus commanding the respondent no. 6 to act upon the letter as contained in memo no. 1706 dated 17.10.2008 issued under the signature of Deputy Inspector General of Police, Criminal Investigation Department, Bihar, Patna addressed to the Under Secretary, Finance Department, Bihar, Patna whereby a request was made to issue and provide sanction letter/authority letter in favour of the petitioner in order to return the excess payment of Rs. 1494/- made by the petitioner on account of interest against House Building Advance.

(iii) To direct the respondents to return the excess payment of Rs. 1494/- made by the petitioner on account of interest against House Building Advance.

(iv) To issue a writ in the nature of Certiorari for quashing the letter as contained in memo no. 6-85 dated 16.04.2015, issued by the Office of the Accountant General (A&E), Bihar, Patna, under the signature of Assistant Accounts Officer, whereby and where under the Treasury Officer, Irrigation Bhawan, Patna has been



requested by the Assistant Accounts Officer, to recover/deduct the amount of Rs. 9521/- from the petitioner's pension account against the House Building Advance.

(v) To issue a writ in the nature of Certiorari for quashing the letter as contained in memo no. 1807 dated 28.08.2014 issued by the Department of Criminal Investigation, Bihar, Patna under the signature of Senior Deputy Superintendent of Police (Accounts Section), Criminal Investigation Department, Bihar, Patna whereby and where under the petitioner has been informed, to deposit the due additional interest amount of Rs. 9521/- against House Building Advance.

(vi) To issue a writ in the nature of Certiorari for quashing the consequential order as contained in memo no. 565 dated 22.07.2014 and letter memo no. 570 dated 17.06.2015 issued by the Finance Department, Bihar, Patna, whereby and where under the representation filed by the petitioner was rejected and accordingly, direction has been issued to the Superintendent of Police (E), to recover/deduct the amount of Rs. 9521/- (Nine Thousand Five Hundred Twenty One Rupees Only) from pension Accounts of the petitioner, and treating as, on account of additional interest charged @ 2.5% against the House Building Advance, without even considering the



case of the petitioner in accordance with law.”

2. The brief facts of the case, according to the petitioner are that the petitioner was appointed on 13.03.1970 in the Police Department as a constable, whereafter he was promoted as an Inspector of Police and finally the petitioner superannuated from service with effect from 31.08.2008. It is submitted that the petitioner had, during his service period applied for home loan for a sum of Rs.2,00,000/- under the scheme of House Building Advance, which was sanctioned and paid to the petitioner prior to the year 2000 and thereafter, he had repaid the same along with the interest, in installments and proof of the said fact is the accounting sheet, annexed as annexure-1 to the present writ petition, prepared by the DSP, Incharge Accountant, CID, Government of Bihar, Patna, dated 17.10.2008, wherein it has been stated that the petitioner has paid the entire amount of home loan and in fact he has deposited a sum of Rs.1,494.00 in excess.

3. The learned counsel for the petitioner has also referred to letter dated 17.10.2008, written by the Deputy Inspector General of Police, CID, Bihar, Patna to the Additional Secretary Finance Department, wherein it has been stated that the petitioner has already paid the entire amount of home loan



alongwith interest and after accounting, it has been found that the petitioner has paid a sum of Rs.1,494.00 in excess. Thus, it is submitted that now the respondents are illegally seeking to recover such sums which are not due and outstanding for payment qua the petitioner herein.

4. The learned counsel appearing for the respondent-State has submitted by referring to the counter affidavit that some installments had not been paid, however, no concrete evidence thereof has been produced.

5. I have heard the learned counsels for the parties and perused the materials on record from which it is apparent that the respondent-authorities are bent upon harassing a retired police personnel and though he has paid the entire amount of home loan alongwith the interest, during his service period, they are seeking to recover the so called outstanding amount, which in fact is not legally due, on a false pretext. It is a well settled law that after retirement no recovery can be made from a retired employee, in case it is not on account of the fault of the concerned employee that such amount is due/outstanding for payment. Reference in this regard be had to a judgment rendered by Hon'ble Apex Court in the case of **State of Punjab and Ors. Vs. Rafiq Masih (white washer) and Ors.**, reported



in **(2015) 4 SCC 334**. Moreover, this Court finds that the principles of Natural Justice have not been complied with prior to taking action for making recovery from the petitioner, hence on this score as well the impugned action of the respondents stand vitiated in the eyes of law.

6. Having regard to the facts and circumstances of the case, this Court finds that since the head of the department of the petitioner has already certified that the entire outstanding amount of house loan alongwith interest has stood paid and in fact a sum of Rs.1,494.00, has been paid in excess, the impugned action of the respondents by way of seeking to recover the amount in question from the petitioner is not sustainable in the eyes of law, hence is quashed.

7. Consequently, the respondents are precluded from recovering any amount from the retiral benefits of the petitioner and are conversely directed to forthwith refund a sum of Rs.1,494.00 to the petitioner.

8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	15.09.2023
Transmission Date	NA

