

(2006) 04 PAT CK 0053
In the Patna High Court
Case No : C.W.J.C. No. 7307 of 2004

Krishna Ranjan Pd. Sinha and Another	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Citation : (2006) 04 PAT CK 0053

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Dharnidhar Mishra, for the Appellant; Bhrigunath Singh, for the Respondent

Judgement

Barin Ghosh, J.—By a letter dated 16th December, 2003, being Annexure-5 to the writ petition, the petitioners were informed that they are receiving remuneration in excess to their entitlement. By the said letter, they were asked to show cause and at the same time, were asked to deposit the excess amount drawn by them with the treasury on or before 31st December, 2000. In this letter, it had not been mentioned as to what the petitioners were entitled to and what was being withdrawn by them and accordingly, what was excess withdrawal. Therefore, the letter did not indicate what excess amount was to be deposited by the petitioners. By Annexure-6 to the writ petition, being letter dated 9th January, 2004, it was held out that the petitioners have not deposited the excess amount withdrawn by them although they have submitted their show cause and accordingly, if the excess withdrawal is not deposited by 31st January, 2004, appropriate action would be initiated against the petitioner. In this letter too, it had not been indicated as to what the petitioners were entitled to, what they were withdrawing and accordingly, what was the excess withdrawal made by them. Therefore, no indication as to what amount of money the petitioners were required to deposit on or before 31st January, 2004. These two letters are so vague that on the basis thereof, no action could be initiated. In the counter affidavit, an attempt has been made to show that the petitioners were entitled to

withdraw a particular amount but they were withdrawing another amount and accordingly, they were making excess withdrawal. This should have been done in the notices themselves in order to enable the petitioners to deal with the matter in an appropriate way so that an appropriate decision could be rendered on the allegation as leveled against the petitioner. That has not been done. Accordingly, annexures 5 and 6 to the writ petition being letters dated 16th December, 2003 and 9th January, 2004 are quashed. In the event the petitioners have withdrawn anything over and above their entitlement, it shall be open to the respondents to initiate recovery proceeding for the extra withdrawal by giving appropriate notice to the petitioners which must contain full break up of the amount, which the petitioners were entitled to withdraw, the amount the petitioners had withdrawn and accordingly, what was the extra withdrawal and for what period. After the petitioners are given an opportunity to deal with such allegation within a reasonable time, a decision thereon shall be taken. After the matter is finally settled, thus, steps for recovery may be initiated in accordance with law.

2. The salary payable to the petitioners for the period 1st January, 2001 to 31st January, 2002, when the petitioners were waiting for posting be paid within a period of three months from today after holding an enquiry whether petitioners were at fault or in fact the department could not post the petitioners during the said period.

3. This disposes of the writ petition.