
(2007) 03 PAT CK 0169
In the Patna High Court
Case No : CWJC No. 14066 of 2006

Sunil Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-03-2007

Acts Referred:

Citation : (2007) PLJR 688

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Vishwanath Ram and Ajay Kumar, for the Appellant; Nilu Agrawal, for the Respondent

Final Decision : Allowed

Judgement

Barin Ghosh, J.—Three Last Pay Certificates have been produced in the Court. One of them is dated 1st September, 2007, and the last one is dated 10th January, 2006. These last Pay Certificates are in printed format. The Last Pay Certificates dated 24th September, 2006 and 10th January, 2007 show that some money was to be recovered from the petitioner, inasmuch as the petitioner has not been accounted for the same. The printed format of the Last Pay Certificate do not authorise the authority issuing the same to incorporate any of such information in the said two last Pay Certificates. Those two Last Pay Certificates, therefore, are not valid and the same are, accordingly, quashed. The Last Pay Certificate dated 1st September, 2006 does not show what amount the petitioner became entitled to by way of increments during the tenure of his service at the place from where the same was issued. In those circumstances, that Last Pay Certificate is also quashed. It must be kept in mind that if any sum of money is required to be recovered from a Government employee, the same must be recovered in the manner prescribed by the Rules. No Rule prescribed by the Government authorise recovery of such money from an employee of the Government in such manner. It is not the case of the State that any proceeding for recovery of such money had been initiated and the same was concluded by a

decision holding that the State Government is entitled to recover the same from the petitioner. In such circumstances, there is no question of holding out the same in any official papers, as that of a Last Pay Certificate.

2. While it is open to the State to initiate such proceeding as it may be advised for recovery of such money, as is alleged to have been retained by the petitioner or misappropriated by the petitioner, the petitioner has right to receive his salary. The Government is directed to provide to the petitioner an appropriate Last Pay Certificate incorporating therein appropriate informations pertaining to the petitioner, including what increments he was entitled to but has been withheld, within seven days from today. The amount of money payable to the petitioner on account of salary, but not paid, shall carry interest at the rate of 10% from due date until payment, for there was no just reason to withhold any part on the salary due and payable to the petitioner.

3. To the extent as above the writ petition is allowed.

4. Photo copies of the Last Pay Certificates, as produced in the Court, be kept on record. Let a copy of this order be handed over to the learned counsel for the state.