

(1998) 12 PAT CK 0056

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5797 of 1997

Ahmad Hussain Ansari and Others

APPELLANT

Vs

The North Bihar Industrial Area Development Authority and
Another

RESPONDENT

Date of Decision : 02-12-1998

Acts Referred:

Citation : (1999) 1 BLJR 341

Hon'ble Judges : R.M. Prasad, J

Bench : Single Bench

Judgement

R.M. Prasad, J.—In this writ petition the petitioners are aggrieved by the order dated 10.6.1997, contained in Annexure 9, whereby and whereunder certain recoveries of the amount paid in excess at the time of earlier revision of pay-scale in the year 1981 have been ordered to be made.

2. Learned Counsel for the petitioners submits that it is highly inequitable to recover the said amount from the petitioners after lapse of 17 long years even though the said payment was made not on account of any misrepresentation made by them (the petitioners). It is submitted that the Apex Court in the case of Sahib Ram Vs. State of Haryana and Others, , under more or less similar circumstances, restrained the authority from making recovery.

3. Mr. Bajla, learned Counsel appearing for the respondent Authority submits that in view of the admitted fact that excess payment was made to the petitioners, the authorities are left with no option but to recover the same.

4. It may be true that excess payment was made to the petitioners but it is not the case of the respondent Authority that the said payment was made on account of any misrepresentation made by them (the petitioners).

5. In the case of Sahib Ram v. State of Haryana (supra), the appellant did not possess the required educational qualification and that he was not entitled to the relaxation. However, the Principal erred in granting relaxation and, accordingly,

paid his salary on the revised scale. The Apex Court held that since it was not on account of any misrepresentation made by the appellant that the benefit of the higher pay-scale was given to him, but by wrong construction made by the Principal for which the appellant cannot be held to be at fault, the amount paid till date may not be recovered from the appellant.

6. In the instant case also it is not the case of the respondents that wrong fixation of pay in the revised scale of the petitioners was made on account of any misrepresentation made by them and/or that the petitioners were in any manner at fault, in the said fixation of their pay.

7. As such, in the light of the decision of the Apex Court, the respondents authorities are restrained from making recovery pursuant to Annexure 9.

8. The writ petition, accordingly, stands disposed of.