
(2019) 07 JH CK 0143
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3647 Of 2014

Arun Prasad

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 08-07-2019

Acts Referred:

Citation : (2019) 07 JH CK 0143

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Indranil Bhaduri, Sunil Singh

Final Decision : Disposed Of

Judgement

1. Heard Mr. Indranil Bhaduri, learned counsel for the petitioner. None appears for the respondents-State of Jharkhand. Mr. Sunil Singh, learned counsel appears for the respondent No. 5.
2. The petitioner has preferred this writ petition for payment of balance of gratuity, balance of 10 % pension, commuted pension and Grade Pay of Rs. 5400 with statutory interest on all unpaid retiral dues.
3. During pendency of writ petition, an order of recovery vide order dated 15.01.2015 (Annexure 7) was passed by respondent no. 3 whereby an amount of Rs. 1,58,489/- has been recovered from the pension and gratuity of the petitioner and further vide order dated 16.01.2015 (Annexure 8) informed the Treasury Officer regarding recovery of the said amount, which the petitioner has challenged by way of filing Interlocutory Application (I.A. No. 6176 of 2015), which was allowed and necessary amendment has been carried out in the prayer portion of writ petition.
4. During course of hearing, learned counsel for the petitioner confined his prayer so far it relates to recovery of amount of Rs. 1,58,489/-. Learned counsel for the petitioner submitted that the respondent no. 3 vide order dated 15.

01.2015 ordered for recovery of Rs. 1,58,489/- from the pension and gratuity of the petitioner alleging the same to be excess payment due to wrong fixation of 1st and 2nd A.C.P with respect to date of grant of such benefits. Thereafter, respondent no. 3 vide letter dated 16.01.2015 informed the Treasury Officer, Doranda, Ranchi regarding excess payment of the above mentioned amount. Learned counsel for the petitioner further submitted that the recovery against the alleged excess payment has been made from the pension and gratuity of the petitioner after his retirement, which is not permissible under the law and the same is evident from the details issued by the Accountant General, Jharkhand vide Annexure 9 to the Interlocutory Application. Learned counsel for the petitioner further submitted that there is no misrepresentation on the part of the petitioner in getting the A.C.P, hence such recovery is bad in law.

5. In support of his submission, learned counsel for the petitioner referred to the decision rendered in the case of Ram Sagar Sahu Vs. The State of Jharkhand passed in W.P. (S) No. 7132 of 2013, wherein the Hon'ble Court taking into account the decision rendered in the case of State of Punjab and others Vs. Rafiq Masih (White Washer) reported in A.I.R S.C 696, has directed for the refund of the amount.

6. Having heard learned counsel for the parties, this Court finds that it is not the case of the respondents that the petitioner misrepresented the department for getting the 1st A.C.P and 2nd A.C.P or misrepresented for wrong fixation of 1st and 2nd A.C.Ps rather it is the respondents-authorities, who on its own granted A.C.Ps to the petitioner. Moreover, the petitioner has now already retired, hence as per the law laid down in the case of Rafiq Masih (supra), the order of recovery as contained in order dated 15.01.2015 (Annexure 7) and 16.01.2015 (Annexure 8) are quashed and set aside.

7. The respondents are directed to refund the recovered amount of Rs. 1,58,489/- within a period of six weeks from the date of receipt/production of copy of this order.

8. With the aforesaid direction, the writ petition stands disposed of.