
(2008) 01 JH CK 0010
In the Jharkhand High Court

Chamru Oraon and Others etc.

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-01-2008

Acts Referred:

Citation : (2008) 1 JCR 423

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—In all the writ petitions similar issue has been raised and as such with the consent of the parties, the same have been heard together and are being disposed of by this common order.

2. In these writ petitions the petitioners have prayed for quashing the order whereby the Superintendent of Police, Wireless has sought to recover the amount allegedly paid in excess by the department to the petitioners. The petitioners have stated that the amount has been paid to them by the order of the competent authority of the department by way of pay protection. The respective personal pay of the petitioners was fixed at the suitable scale as the juniors were getting higher pay scale. There was no misrepresentation on the part of the petitioners in getting the said enhanced pay. There was no illegality in fixing their pay and there is no excess payment, as has been alleged in the impugned order.

3. Dr. S.N. Pathak, learned Counsel appearing on behalf of the petitioners, submitted that the said issue has already been decided by this Court in W.P.(S) No. 5464/06 and analogous cases. He has further submitted that the similar issue regarding recovery of amount at higher scale paid to the employee without any misrepresentation, has been set at rest by Full Bench decision of this Court in Laxman Prasad Gupta v. State of Jharkhand and Ors. reported in 2007 (4) JLR 459 and Smt. Normi Topno Vs. The State of Jharkhand and Others, .

4. Learned J.C. to A.G. as also learned J.C. to Sr. S.C.-II appearing on behalf of

the respondents, have not disputed the said contentions of learned Counsel for the petitioners. Learned Counsel fairly submitted that these cases are squarely covered by the said decisions of this Court.

5. After hearing the parties and considering the facts, issue involved and law settled by this Court in the Full Bench decisions of this Court in Laxman Gupta case and Smt. Normi Topno case, supra, and also the order passed in W.P.(S) No. 5464/06 in a similar case, it is held that the amount paid to the petitioners and the husband of the petitioner in W.P.(S) No. 1784/07 towards pay protection cannot be recovered from them. The impugned order(s) for recovery of the said amount is held to be arbitrary and unsustainable and the same are quashed. The concerned respondents shall refund the amount to the petitioner(s), if any such amount were deducted/recovered, within two months from the date of receipt/production of a copy of this order.