
(2012) 07 RAJ CK 0009
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9963 of 2009

Laxmi Narayan

APPELLANT

Vs

Rajasthan Rajya and Vidyut Prasaran Nigam Ltd. and Others

RESPONDENT

Date of Decision : 25-07-2012

Acts Referred:

Citation : (2013) 2 CDR 774

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : S.K.M. Vyas, for the Appellant; Ravi Bhansali, for the Respondent

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—Instant writ petition has been filed by the petitioner who was superannuated from the post of L.D.C. on 30.11.2008 while working in the office of respondents in which he has challenged impugned recovery order dt. 21.04.2009 (Annex.-P/5) and further prayed that respondents may be directed to make payment of all his retiral benefits while counting his basic salary of Rs. 17,720/- and make proper re-fixation of salary. As per facts of the case, admittedly, a wrong fixation was made by the respondents themselves and, thereafter, at the time of finalization of the pension case of the petitioner an order was passed to recover amount of Rs. 33,352/- from the gratuity amount.

2. Learned counsel for the petitioner submits that without issuing any show-cause notice or providing opportunity of hearing to the petitioner, straight away, order has been passed effecting recovery from the amount of gratuity payable to the petitioner which is totally illegal.

3. After hearing learned counsel for the parties, I am of the opinion that recovery order Annex.-5 is totally illegal because there is no allegation against the petitioner that he has received the said amount while misrepresenting or committing any fraud. Therefore, if any mistake is committed by the respondents for making payment of salary, then, the said amount cannot be recovered from

the amount of gratuity. Therefore, while following the adjudication made by the Hon''ble Supreme Court in the case of Shyam Babu Verma and Others Vs. Union of India (UOI) and Others, , I am inclined to allow this writ petition. Accordingly, this writ petition is allowed. Impugned recovery order dt. 21.04.2009 (Annex. P/5) is quashed and set aside and respondents are directed to refund the said amount recovered from the gratuity amount of the petitioner within two months from the date of receiving certified copy of this order.