

(2010) 01 JH CK 0182
In the Jharkhand High Court

Madan Mohan Lal Chaurasia

APPELLANT

Vs

The Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 12-01-2010

Acts Referred:

Citation : (2010) 01 JH CK 0182

Hon'ble Judges : D.G.R. Patnaik, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. From the rival submissions, the facts which emerge are that the petitioner was granted increments in his salary by the Respondent Board in between 1980-1992. It was detected much later, almost a few months prior to the date of the petitioner's retirement, that such increments which were given to the petitioner, was erroneous in as much as, the petitioner did not deserve the increments on account of the fact that he had not acquired the eligibility for grant of increments which could be given only to such employees who had passed the Hindi Noting Examination.

3. The petitioner continued to avail the benefits of the purported excess payments for more than 15 years. However, from August 2003, recovery at the rate of Rs. 2125/-per month began to be made by the respondents from the salary of the petitioner.

4. The petitioner's contention is that such recovery was commenced without giving any prior notice to him and without assessing by way of any inquiry, that the purported excess amount was availed by the petitioner by practicing fraud and misrepresentation.

5. The facts, as appearing in the petitioner's case, has been sought to be corrected by the counsel for the respondents, who submits that a three man

committee was constituted to examine the propriety of the grant of increments to the employees and the committee after conducting inquiry, had found that the payment made to the petitioner, by way of increments in his salary, was incorrect and not deserving.

6. As it would appear from the admitted facts, there is no indication that the petitioner had obtained the purported excess payment by practicing fraud or misrepresentation. It is not denied that prior to the commencement of the recovery, no notice was issued to the petitioner to enable him to explain as to why the recovery should not be made. Furthermore, it appears that payment which continued to be given to the petitioner for the past more than 15 years, was abruptly sought to be recovered from him, that too at the fag end of his service.

7. This issue is no more res-integra. Earlier in the judgment passed by the Supreme Court in the case of Sahib Ram Vs. State of Haryana and Others, , it was decided that in absence of any allegation of fraud or misrepresentation on the part of the employee, the annual increment which was released, cannot be recovered from the salary/or retiral benefits of the employees. The same ratio was also applied in the case of Nand Kishore Pandey v. Jharkhand State Electricity Board and Ors. 2006 (4) JLJR 558.

8. Considering the aforesaid facts and circumstances and the ratio decided in the aforesaid cases, I find merit in this writ application. The same is accordingly allowed. The respondents shall not recover any amount from the petitioner's salary/retiral benefits and the amounts already recovered, shall be refunded by the respondents to the petitioner within three months from the date of receipt/production of a copy of this order.