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**(2010) 04 JH CK 0055**  
**In the Jharkhand High Court**

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| Smt. Radha Rani                   | Vs | APPELLANT  |
| The State of Jharkhand and Others |    | RESPONDENT |

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**Date of Decision :** 13-04-2010

**Acts Referred:**

**Citation :** (2010) 04 JH CK 0055

**Hon'ble Judges :** Dhirubhai Naranbhai Patel, J

**Bench :** Single Bench

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### Judgement

D.N. Patel, J.—This writ petition has been preferred against the order, passed by respondent No. 2 dated 26th May, 2009 whereby, without holding any inquiry sizeable amount, which is approximately Rs. 1, 49,909/- has been ordered to be recovered from the retirement benefits of the deceased husband of the present petitioner, who was working as Range Officer with the respondents, and expired on 22nd May, 2005. Thus, the order of recovery has been passed after approximately four long years, after the death of the husband of the petitioner and that too, without holding any inquiry for the proposed misconduct of the year, 1995. In this regard, learned Counsel for the petitioner has also cited some decisions as rendered in the case of Smt. Indu Devi Vs. The State of Bihar and Others, and also in the case of Radha Jha Vs. The State of Bihar and Others, .

2. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case, it appears that:

(i) the husband of the present petitioner was working as Range Officer, since 1982. Prior to his death, he worked with the respondents with sincerity, honestly, diligently and to the satisfaction of the respondents.

(ii) the husband of the petitioner expired in harness, during course of his service, on 22nd May, 2005.

(iii) after four long years, abruptly, an order has been passed by respondent No. 2, without holding any inquiry, for deduction of Rs. 1,49,909/- from the retirement benefits of the husband of the present petitioner. The said order is at

Annexure-1 to the memo of the petition. Thus, it appears that the order at Annexure-1 dated 26th May, 2009 has been passed, without following the principles of natural justice.

(iv) looking to the impugned order at Annexure-1 dated 26th May, 2009, it further appears that for very stale charges of the year, 1995, the impugned order has been passed and that too, without holding inquiry.

(v) never any inquiry has been conducted and the conclusion has been arrived at by the respondents. Thus, there is no inquiry, nor there is any inquiry report and the charges leveled against the husband of the petitioner, has been presumed to have been proved by the respondents, which is not permissible in the eye of law, on the part of the respondents.

(vi) that the legally payable amounts of retirement benefits like general provident fund, gratuity, leave encashment and arrears of pay revision have not been paid to the petitioner and 10% amount of the general provident fund amount has been withheld by the respondents, illegally.

3. In view of the aforesaid facts and reasons and in absence of any show cause notice and in absence of any enquiry and in absence of any opportunity of being heard to the petitioner, the aforesaid order at Annexure-1 dated 26th May, 2009 has been passed and therefore, I hereby, quash and set aside the order, passed by respondent No. 2 at Annexure-1 to the memo of the petition and I hereby, direct the respondents to make payment of the outstanding legally payable amounts, towards general provident fund, gratuity, leave encashment, arrears of pay revision and towards such other retirement benefits, legally payable to the petitioner, within a period of sixteen weeks, from the date of receipt of a copy of an order of this Court.

4. This writ petition is disposed of in view of the aforesaid directions.