
(2012) 07 JH CK 0234
In the Jharkhand High Court
Case No : WP (S) No. 6433 of 2004

Sujit Kumar Das and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-07-2012

Acts Referred:

Citation : (2013) 3 JLJR 284

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Manoj Tandon and Kumari Rashmi, for the Appellant; Sunil Singh, for the Respondent

Judgement

Alok Singh, J.—Petitioners have invoked the writ jurisdiction of this Court assailing the order dated 4.3.2004, whereby recovery of excess amount paid to the petitioners was directed to be recovered from the petitioners. Perusal of the impugned order shows that the petitioners were paid salary which was for the Matric Trained Teachers, while petitioners were not the Matric Trained Teachers. Neither there is any material on the record nor the impugned order suggests that the petitioners ever played any role, fraud or misrepresentation for getting their salaries illegally fixed, which were meant for Matric Trained Teachers and thereby have received the excess amount illegally. It seems that authorities have wrongly fixed the salary of the petitioners and have been paying the same for more than twelve years.

2. Hon"ble Apex Court In the case of Syed Abdul Qadir and Others Vs. State of Bihar and Others, has ruled that if authorities have fixed the salary of the employee by wrongly interpreting the notification, rules or regulations without there being any role of the employee, then employee is not guilty of playing any fraud or misrepresentation for getting the excess amount. So, the amount paid to the employee should not be recovered from the employee for no fault of him.

3. In view of the above discussions that petitioners were not found guilty of

suppression of any fact or playing any fraud and misrepresentation for getting their salary illegally fixed. Therefore, there should not be recovery of excess amount paid to the petitioners in view of the factum of Hon''ble Apex Court in the case of Syed Abdul Qadir and Others (supra). Accordingly, the present writ petition is allowed and the impugned order (Annexure-7) is quashed.