



Serial No.66
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 20 of 2025

Date of Decision: 01.12.2025

Shir. Henjenson D.Sangma,
S/o. Inding R. Marak.

...Petitioner

-Versus-

1. The State of Meghalaya
Represented by its Commissioner & Secretary,
Community & Rural Development,
Government of Meghalaya, Shillong.
2. The Director,
Community & Rural Development,
Meghalaya, Shillong.
3. The Joint Director,
Community & Rural Development,
Meghalaya, Shillong.
4. The Deputy Commissioner,
East Garo Hills District,
Williamnagar.
5. The Deputy Commissioner,
North Garo Hills District,
Resubelpara.
6. The Block Development Officer (BDO),
Samanda Development Block,
East Garo Hills District,
Meghalaya.
7. The Block Development Officer, (BDO),
Songsak Development Block,
East Garo Hills District, Meghalaya.



8. The Block Development Officer (BDO),
Kharkutta Development Block,
North Garo Hills District,
Meghalaya.
9. The Financial Advisor (FA),
I/C Community & Rural Development Department,
Shillong, Meghalaya.
10. The Finance & Accounts Officer (FAO),
Directorate of Community & Rural Development,
Meghalaya, Shillong.
11. The Treasury Officer,
Treasury Office, Resubelpara,
North Garo Hills District,
Meghalaya.
12. The Treasury Officer,
Treasury Office, Williamnagar,
East Garo Hills District,
Meghalaya.
13. The Accountant General (A&E),
Shillong, East Khasi Hills District,
Meghalaya.

...Respondents

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) :	Mr. A.G.Momin, Adv. Ms. L.D.Sangma, Adv.
For the Respondent(s) :	Mrs. T.Yangi B, AAG with Mr. H.Abraham, GA for R 1-12. Ms. E.B.Passah, Adv. for R 13.



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| i) | Whether approved for reporting in Law journals etc: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. The brief facts are that the petitioner had served as a Gram Sevak in the office of the Block Development Officer, Samada Development Block, East Garo Hills District on being appointed on 12-03-1984. The petitioner, in the course of his service, was promoted to the post of Senior Gram Sevak and retired from the said post on 29-02-2024. However, when the matter came for release of his terminal benefits, it was put to the knowledge of the petitioner vide letter dated 20-05-2024, that his salary had been overdrawn which was to be recovered before the pension and other terminal benefits were processed by the respondents. The petitioner thereafter, had preferred representations before the State respondents, and on being aggrieved by the inaction, is before this Court by way of this instant writ petition.

2. Mr. A.G.Momin, learned counsel for the petitioner has submitted that the proposed recovery of ₹10,73,496/- from the terminal/retirement benefits of the petitioner is unsustainable, inasmuch as, it is not the fault of the



petitioner that the excess amount had been allowed. He further submits that to recover the amount from the petitioner at this stage, would cause gross injustice, as he has availed a loan from the State Bank of India, and is also suffering from an ailment for which the petitioner requires treatment which is not available in the place where the petitioner is residing. Learned counsel has drawn the attention of this Court to Annexure-XV which is a letter dated 08-08-2024, and also Annexure-XV-A which is a letter dated 04-10-2024, both issued by the State Bank of India, which evidences the outstanding demand of ₹169054/- plus interest, being made from the petitioner. Further, learned counsel has also referred to a Medical Certificate where the patient has been advised to proceed for treatment. He submits that though the petitioner might have executed an undertaking in the prescribed form with regard to allowing the recovery on an excess amount, the same relates to a Pay Revision that was implemented w.e.f. 2007, and at this late stage after retirement, firstly, with him facing extreme financial hardship and also considering his health condition, prays that this Court may pass appropriate orders to exempt the writ petitioner from the recovery proceedings and to direct for release of his terminal benefits and his pension, which he submits, has not been released.



3. Mrs. T.Yangi B, learned AAG assisted by Mr. H.Abraham, learned GA on behalf of the State respondents, in reply has submitted that the recovery sought to be made is as per due procedure and it cannot be said to be arbitrary or punitive in any manner. Learned AAG has submitted that firstly, the writ petitioner had executed an undertaking in the prescribed form and submits that the pay revision which had been made effective from the year 2007 in 2009, the first undertaking made in 2009 itself, has not been refuted by the writ petitioner, so also, the second undertaking executed in 2024. She further submits that as per Rule 73 of the Meghalaya Civil Service Pension Rules, 1983, the government reserves the right, and it is the liability of every retiring government servant to clear all the dues before the date of retirement, and when the same is not possible, out of the gratuity payable, the same will be recoverable. She submits that this Rule has also not been challenged, and the petitioner having been put to notice with regard to the discrepancy in pay, if any, which would be recoverable, no case has been made out for interference by this Court. In this context, learned AAG has also referred to a judgment passed by this Court dated 15-11-2022, passed in WP(C). No. 255 of 2020, in the case of *Smti. Badarisha Nongkhar vrs. State of Meghalaya & Ors.*



4. This Court having heard the learned counsel for the parties and also perused the materials on record, notes that the recovery of overdrawn pay in terms of Rule 73 stipulates that a government servant is duty bound to clear all government dues and if the dues are not cleared, the same shall be recoverable from the gratuity or other terminal benefits. This Court has also taken into consideration the judgment of *State of Punjab & Ors. vrs. Rafiq Masih (White Washer) & Ors*, reported in (2015) 4 SCC 334, and also a subsequent judgment of *High Court of Punjab & Haryana vrs. Jagdev Singh*, reported in (2016) 14 SCC 267. A reading of these two judgments including the condition precedent given in *Rafiq Masih (Supra)*, shows that in the event an Officer to whom payment was made was clearly put on notice, the said Officer or a government employee will be bound by the undertaking.

5. As observed earlier, in the present case, it has not been disputed that the writ petition had been put to notice as to the recovery, and as such, the order for recovery cannot be said to be illegal or irregular in any manner. However, the only consideration that is before this Court is the extreme financial hardship that the writ petitioner is facing due to non-release of his pension, which has been compounded with the loan that the writ petitioner has availed, and also his medical condition. At this juncture, it may be useful to refer to the judgment of the Supreme Court in the case of *Chandi Prasad*



Uniyal & Ors. vrs. State of Uttarakhand & Ors. reported in ***(2012) 8 SCC 417***, wherein at para 14, it has been held as follows:

“14. We are concerned with the excess payment of public money which is often described as “tax payers’ money” which belongs neither to the officers who have effected overpayment not to the recipients. We fail to see why the concept of fraud or misrepresentation is being brought in in such situations. The question to be asked is whether excess money has been paid or not, may be due to a bona fide mistake. Possibly, effecting excess payment of public money by the government officers may be due to various reasons like negligence, carelessness, collusion, favouritism, etc. because money in such situation does not belong to the payer or the payee. Situations may also arise where both the payer and the payee are at fault, then the mistake is mutual. Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. Any amount paid/received without the authority of law can always be recovered barring few exceptions of extreme hardships but not as a matter of right, in such situations law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment.”

6. A perusal of the above quoted paragraph shows that any amount paid or received without authority of law can always be recovered, barring few exceptions of extreme hardship but not as a matter of right. In the considered view of this Court, though the recovery proceedings are not liable to be interfered with, in consideration of the extreme financial hardship and other



circumstances of the writ petitioner, to balance the equities, it is directed that only 50% of the amount shall be recovered from the terminal benefits of the writ petitioner. It is reiterated that this order has been passed considering the circumstances of the case itself, and shall not serve as a precedent in other matters.

7. As discussed above, the matter accordingly stands closed and is disposed of.

Judge