

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3744/2014

(RAMDAS NAMDEORAO DUDHANE **VERSUS** THE CHIEF GENERAL MANAGER, B.S.N.L.,
MUMBAI & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.R. Kidiley, counsel for the petitioner.
Shri R.G. Agrawal, counsel for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
C.V. BHADANG, JJ.

DATE : JUNE 8, 2015.

By this petition, the petitioner challenges the communication issued by the respondent nos.1 to 4 seeking recovery of an amount of Rs.80,105/- towards over payment, from the petitioner.

The petitioner was appointed by the respondents as a Phone Mechanic in the year 1971. More than seven years after the petitioner was superannuated, the petitioner received the impugned communication from the respondents seeking the recovery of an amount of Rs.80,105/- paid in excess to the petitioner.

The learned counsel for the petitioner states that the petitioner is only challenging the order seeking recovery of the excess amount of Rs.80,105/-. It is stated that in view of the law laid down by the Hon'ble Supreme Court in the case of *Syed Abdul Qadir & Others Versus State of Bihar*, reported in **2009 AIR SCW 1891** and in the case of *Chandi Prasad & Others Versus State of Uttarkhand & Others*, reported in **AIR 2012 SC 2951**, the respondents could not have recovered the amount paid to the petitioner in excess during the period from 2001 to 2007.

On a reading of the judgments of the Hon'ble Supreme reported in **2009 AIR SCW 1891** (*Syed Abdul Qadir & Others Versus State of Bihar*) and **AIR 2012 SC 2951** (*Chandi Prasad & Others Versus State of Uttarkhand & Others*), we do not find any propriety in the order seeking the recovery of the amount of Rs.80,105/- paid to the petitioner in excess for the period from 2001 to 2007, after the petitioner stood superannuated in the year 2007. There is nothing on record to show that the petitioner had fraudulently claimed the payment in excess from the respondents or was instrumental in seeking higher monetary benefits than that were admissible to the petitioner during the relevant time. In view of the judgments reported in **2009 AIR SCW 1891** (*Syed Abdul Qadir & Others Versus State of Bihar*) and **AIR 2012 SC 2951** (*Chandi Prasad & Others Versus State of Uttarkhand & Others*), the impugned communication is liable to be quashed and set aside.

For the reasons aforesaid, the writ petition is allowed. The impugned communication is quashed and set aside.

Order accordingly. No costs.

JUDGE

JUDGE

APTE