

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1446 of 2018

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1. The Union Of India through the Secretary, Department of Posts, Dak Bhawan, New Delhi- 110001.
 2. The Director General, Posts, New Delhi-110001.
 3. The Chief Postmaster General, Bihar, Patna- 800001.
 4. The Chief Postmaster Patna GPO, Patna.

.... Petitioner/s

Versus

1. Ashok Kumar, Son of Late Muna Lal Thakur, Resident of Village- Matihan, P.O.- Dighwara, P.S.- Dariyapur, District- Saran.
2. Janardan Prasad Verma, Son of Late Sidheshwar Prasad Verma, Resident of 15, Kidwaipuri, P.O.- GPO, P.S.- Kotwali, District- Patna, Pin- 800001.
3. Lal Bahadur, Son of Late Ram Dev Pandit, Resident of Village- Tetri Chak, P.O.- Nadwan, Via- Punpun, District- Patna.
4. Narsingh Mahto (father's name not known to the petitioners), Chief Postmaster, GPO, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Sharan, A.S.G.
For the Respondent/s : Mr. Dipak Kumar, Adv.
Mr. Madhuresh Singh, Adv.
Mr. N.N. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: **HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**)

Date: 25-01-2018

Heard learned Assistant Solicitor General representing the

Union of India and the counsel for the respondents.

The O.A. application of the private respondents was

allowed vide order dated 07.09.2017 by the Central Administrative



Tribunal, Patna Bench Patna. O.A. No. 563 of 2015 was preferred by the three applicants because a sum of rupees varying between 13000/- to 16000/- and odd was sought to be recovered at the time of superannuation and settlement of gratuity etc. of the employees. They assailed the decision before the Central Administrative Tribunal. The Tribunal found that such recovery is in relation to so called payment said to be in excess made between the period 1996 to 2002. The recovery was sought to be made in the year 2014 at the time of superannuation without notice and without show cause, on the basis of so called declaration that in case of any discrepancy, the amount can be recovered.

The Tribunal did not find the action of the petitioners representing the Union of India to be justifiable in law. The Tribunal has rightly held they are low paid employees and such unilateral action of recovery at the time of superannuation is directly in the teeth of the Hon'ble Supreme Court decision rendered in the case of **State of Punjab & Ors. Vs. Rafiq Masih (white washer) & Ors., (2015) 4 SCC 334** especially the categorization which the Hon'ble Apex Court has done in the concluding paragraph of the said decision.

The Court, therefore, is not inclined to interfere with the order of the Tribunal on the ground and submission made on behalf of the counsel for the Union of India that in a similar matter in a decision



rendered on 13.09.2004 by the Principal Bench, recovery was held to be justifiable.

The distinction which is required to be made is that the law has undergone a change and the decision of Central Administrative Tribunal, Principal Bench rendered on 13.09.2004 may not be good law in view of the declaration of law by the Hon’ble Apex Court in the case of **Rafiq Masih** (supra).

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.01.2018
Transmission Date	NA

