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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3182 of 2011**

Anil Kumar Tiwari S/o late Shri Rajeshwar Prasad Tiwari, aged about 53 years, Assistant Engineer, office of the Chief Engineer, Hasdev Kachhar, Bilaspur, R/o B-14, Nehru Nagar, Bilaspur, District Bilaspur (CG)

---- **Petitioner****Versus**

1. State of Chhattisgarh through the Secretary, Water Resources Department, DKS Bhawan, Raipur, Chhattisgarh
2. The Engineer in Chief, Water Resources Department, Raipur, Chhattisgarh
3. The Chief Engineer, Hasdev Kachhar, Water Resources Department, Bilaspur, Chhattisgarh
4. University Grants Commission (UGC) through the Secretary, Bahadur Shah Jafar Marg, New Delhi
5. All India Council of Technical Education, through the Director, 7th Floor, Chandralok Bhawan, Janpath, New Delhi
6. Distance Education Council (DEC), through the Director, Indira Gandhi National Open University (IGNU) Maidan Garhi, New Delhi 110068
7. Janardan Rai Nagar Rajasthan Vidyapeeth (Deemed) University, through the Registrar, Pratap Nagar, Udaipur (Rajasthan)

---- **Respondents****Writ Petition (S) No. 1827 of 2012**

Damodar Mishra S/o late Shri N. K. Mishra, aged about 56 years, Assistant Engineer, Office of the Chief Engineer, Minimata (Hasdev) Bango Project, Bilaspur, R/o H-2/5, Nehru Nagar, Bilaspur, District Bilaspur (CG)

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1. State of Chhattisgarh through the Secretary, Water Resources Department, DKS Bhawan, Raipur, Chhattisgarh
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---- Respondents

For Petitioner	:	Shri Tridib Bhattacharya, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

16.05.2018

Challenge in both the writ petitions is to the orders dated 03.12.2010 and 24.03.2012 (Annexure P-1 in both the petitions) whereby the respondent Department has ordered for cancellation of the two advance increments given to the petitioners on account of their having obtained the decree of M.Tec in Civil Engineering.

2. Counsel appearing for the petitioners as well as the State jointly make a statement that the issue involved in the present case stands squarely covered by the recent judgment of the Supreme Court in the case of **Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and others** reported in **(2018) 1 SCC 468**. Both these petitioners before this Court have been enjoying interim relief so far as the effect and operation of the impugned order being stayed as early as on 26.04.2012 and 08.05.2012 respectively.

3. The Hon'ble Supreme Court while deciding the case of Rabi Sankar Patro (supra) in paragraph-58 has held as under:

“58.It goes without saying that any promotion or advancement in career on the basis of such degree shall also stand withdrawn, however, any monetary benefits or advantages in that behalf shall not be recovered from them.”

4. In the light of the aforesaid observation by the Supreme Court, the only issue left to be considered by the respondent/Department is that of the monetary benefits of two advance increments which the petitioners have received till the impugned orders were issued. In the light of the order passed by the Supreme Court, the recovery part stands impermissible. Thus, this Court is of the opinion that nothing further remains to be adjudicated upon in the instant cases.

5. The petitioners would be at liberty to make a fresh representation/objection for refund of any recovery which has been made from them. On such representation being made by the petitioners, the Chief Engineer of the Water Resources Department under whom the petitioners are working would take a decision on their representation at the earliest.

6. As a consequence the writ petitions stand allowed. The impugned orders dated 03.12.2010 and 24.03.2012 stand disallowed to the extent as observed by the Supreme Court in the case of Rabi Sankar Patro (supra).

Sd/-
P. Sam Koshy
Judge