

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11030 of 2011

1. Dr.Rajendra Prasad Sinha Son of late Nem Narayan Prasad Resident of Tribhuwan Gopal Enclave, Nalanda Colony, KHajepura, P.O.- Bihar Veterinary College, P.S.- Rajiv Nagar, Patna-14, retired Senior Scientist, Agricultural Research Institute, Patna.
2. Dr. Pawan Kumar Son of late Mathura Sharma resident of A7, Krishi Nagar, P.O.- Ashiyana Nagar, P.S.- Rajiv Nagar, Patna-25, retired Senior Scientist, Agricultural Research Institute, Patna.
3. Dr. Sachindra Kumar Sinha Son of late Lal Bahadur Singh resident of K- 580, Hanuman Nagar, P.O.- Lohia Nagar, P.S.- Hanuman Nagar, Patna 20 retired Senior Scientist, Agricultural Research Institute, Patna.
4. Dr. Ram Bhushan Prasad Sinha Son of Sri Ram Binod Prasad Sinha resident of B-1, Sumitra Villa, Magistrate Colony Road, Khajepura , P.O. Bihar Veterinary College, P.S.- Rajiv Nagar, Patna-14, retired Chief Scientist, Agricultural Research Institute, Patna.
5. Dr. Rajendra Prasad Sinha Son of late Doman Prasad Sinha Resident of Shivajee Chauk, Ram Krishna Nagar, Khajepura, P.O. New Jaganpura, P.S.- Ram Krishna Nagar, Patna-27, retired Chief Scientist, Agricultural Research Institute, Patna.
6. Dr. Ram Bilash Prasad Son of late Chhotu Prasad Resident of Bihari Path, New Bigrampur, P.O.- G.P.O., P.S. Jakkanpur, Patna-1, retired Chief Scientist Agricultural Research Institute , Patna.
7. Alpana Kumari Daughter of late Dr. Ram Kumar Prasad Sinha All residents of Gayatri Villa, Radha Krishna Colony, Naya Chak, P.O.- Naya Chak, P.S.- Ramn Krishna Nagar, Patna-16
8. Nilesh Ranjan Son of late Dr. Ram Kumar Prasad Sinha
9. Kumar Suvesh Ranjan Son of late Dr. Ram Kumar Prasad Sinha
10. Gayatri Sinha Wife of late Dr.Ram Kumar Prasad Sinha
11. Dr. Vinay Nandan Sahai Son of late R.M. Sahay Resident of Gandhi Path, Mithapur, P.O.- G.P.O. , P.S. - Gardanibag, Patna-1, retired Chief Scientist, Agricultural Research Institute, Patna.
12. Dr. Anil Kumar Singh Son of late Surendra Prasad Singh Resident of 101, Vishal Plaza, Maurya Path, Khajepura, P.O.- Bihar Veterinary College, P.S.- Shastri Nagar, Patna-14, retired Chief Scientist, Agricultral Research Institute, Patna.

... .. Petitioner/s

Versus

1. The Rajendra Agriculture Unive, Bihar, Pusa Samastipur, through its Registrar.
2. The Vice Chancellor, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
3. The Registrar, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
4. The Comptroller, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
5. The Bihar Agricultural University, Sabour , Bhagalpur, through its Registrar.
6. The Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.
7. The Registrar, Bihar Agricultural University, Sabour, Bhagalpur.
8. The Regional Director, Agricultural Research Institute, Patna.

... .. Respondent/s



Appearance :

For the Petitioner/s	:	Mr. Mahesh Parwat, Sr. Advocate Mr. Ved Prakash, Advocate Mr. Sanjay Kumar Jha, Advocate
For the RAU	:	Mr. D.P. Sinha, Sr. Advocate Mr. Arvind Ujjawal, Advocate
For the BAU	:	Mr. Anjani Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 03-01-2019

The present writ petition has been filed for quashing of the letter no. 3070 dated 06.12.2010 issued by the Comptroller, Rajendra Agricultural University, Bihar, Pusa, Samastipur whereby and whereunder recovery has been sought to be made from the pension being granted to the petitioners herein. It is further prayed for quashing of the office order no. 471 dated 30.03.2011 issued by the Regional Director, Agricultural Research Institute, Bihar Agricultural University, Sabour, Bhagalpur which is a consequential order whereby and whereunder recovery has been sought to be made.

The law on the subject matter under consideration is no longer res integra inasmuch as the Hon'ble Apex Court in cases reported in *2009 (3) SCC 475 (Syed Abdul Quadir Vs. State of Bihar)* and *2015 (4) SCC 334 (State of Punjab vs. Rafiq Masih)* has already held that no recovery can be made from the employees, who have retired. The relevant paragraphs of the judgment rendered by the Hon'ble Apex Court in the case of



Sate of Punjab (supra) are reproduced hereinbelow:-

“18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

19. We are informed by the learned counsel representing the appellant- State of Punjab, that all the cases in this bunch of appeals, would undisputedly fall within the first four categories delineated hereinabove. In the appeals referred to above, therefore, the impugned orders passed by the High Court of Punjab and Haryana (quashing the order of recovery), shall be deemed to have been upheld, for the reasons recorded above.”

The aforesaid position in law is not disputed by the



learned counsel appearing for the respondents.

Having regarding to the submission made by the learned counsel for the parties as also keeping in mind the facts and circumstances of the present case, the writ petition is allowed and the impugned orders as contained in letter no. 3070 dated 06.12.2010 and the one contained in office order no. 471 dated 30.03.2011 are quashed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.01.2019
Transmission Date	

