

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.466 of 2023

In
Civil Writ Jurisdiction Case No.23338 of 2018

1. The State of Bihar through the Director, Consolidation of Holdings (Chakbandi), Bihar, Patna.
2. The Joint Director, Consolidation of Holdings (Chakbandi), Bihar, Patna.
3. The Accountant General, Bihar, Patna.
4. The Consolidation Officer, Chakbandi, Chand, Kaimur.
5. The Senior Treasury Officer, Kaimur, Bhabhua.
6. The District Accountant Officer, Rohtas, Sasaram.

... .. Appellant/s

Versus

Arimardan Singh, Son of Dev Narayan Singh, Resident of Village- Bardiha
Prasuram, P.S.- Lar, District- Deoria, Uttar Pradesh.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sajid Salim Khan, SC- 25
For the Respondent/s : Mr.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 04-02-2025

Re.- I.A. No. 01 of 2023 :-

The learned Advocate for the appellants presses

I.A. No. 01 of 2023 for condoning the delay of 238 days

in preferring this appeal.



2. For the reasons stated in the application, the delay of 238 days in preferring this appeal is, hereby, condoned.

3. I.A. No. 01 of 2023 stands allowed.

Re.- L.P.A. No. 466 of 2023 :-

4. The State has challenged the order dated 20.06.2022 passed in C.W.J.C. No. 23338 of 2018, thereby preventing the State from proceeding to recover an amount of Rs. 98,945.00/- + Rs. 36,630.00/-, which is sought to be recovered from the respondent after seventeen years of his retirement from his pensionary benefits and excess Gratuity paid to him on account of excess payment having been made to him while granting ACP.

5. The case of the respondent before the learned Single Judge was that there was no misrepresentation and, in fact, the respondent along with others was paid the aforesaid salary. He retired on 30.04.2009.

6. The learned Single Judge, taking note of the



judgment of the Supreme Court in ***State of Punjab and Ors. vs. Rafiq Masih (White Washer) and Ors. : (2015) 4 SCC 334***, found that such process of recovery from a Class III employee, after seventeen years of his superannuation, cannot be countenanced.

7. The arguments on behalf of the State is that notice regarding such excess payment having been made to the appellant, to which he had not replied, actually take him out of the category of instances in which the Supreme Court in ***Rafiq Masih (supra)*** had directed that such recoveries cannot be made.

8. In the present case, we find that such notice was given to the respondent after about four years of his retirement and there was no corresponding undertaking by the respondent that in case any extra payment is found to have been made to him, he would refund it. This was the condition in ***High Court of Punjab and Haryana and Ors. vs. Jagdev Singh : (2016) 14 SCC 267*** for the Supreme Court to take a different view



of the matter with respect to recovery made on account of wrong payment, but without any misrepresentation of the facts.

9. We do not intend to interfere with the order passed by the learned Single Judge referred to above.

10. The appeal stands dismissed.

11. Interlocutory application/s, if any, also stands disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Praveen-II-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.02.2025
Transmission Date	NA

