2025:JHHC:36721

IN THE HIGH COURT OF JHARKHAND AT RANCHI

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W.P.(S) No.3947 of 2025

Mohammad Adiluzzaman Khan, S/o Md. Shakiluzzaman Khan, R/o Road No.5A, ISM Chowk, Aman Green City, P.O- Pundag, P.S. Pundag, District Ranchi, Jharkhand

.... Petitioner(s).

Versus

1.Damodar Vally Corporation through Chairman, Damodar Valley Corporation having office at DVC Towers, VIP road, Kolkata P.O. VIP Road, P.S. Lake Town, District- North 24 Parganas, West Bengal

2.Senior General Manager (HR), DVC, Chandrapura, having office at Chandrapura Thermal Power Station, P.O. Chandrapura, P.S. Chandrapura, District Bokaro, Jharkhand

3.Deputy General Manager, Finance Department, DVC, Chandrapura Thermal Power Station, having office at Chandrapura Thermal Power Station, P.O. Chandrapura, P.S. Chandrapura, District Bokaro, Jharkhand

4.Manager (HR), DVC, Chandrapura Thermal Power Station, having office at Chandrapura Thermal Power Station, P.O. Chandrapura, P.S. Chandrapura, District Bokaro, Jharkhand

… Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Ashish Kumar Shekhar, Advocate
Ms. Sherya Singh, Advocate

For the Resp-DVC : Mr. Prashant Kr. Singh, Advocate
Ms. Pinky Shaw, Advocate

…....

09 / 08.12.2025: Heard, learned counsel for the parties.

2. Petitioner has challenged the letter dated 18.06.2025, whereby the respondents have directed to recover a sum of Rs.1,89,232/- from the retiral benefit of the petitioner.

3. After hearing the parties, I find that the petitioner superannuated on 31.01.2020. It is the case of the respondents that while fixing the salary of the petitioner after granting him the second stagnation benefit, he was paid excess salary to the tune of Rs.1,89,232/-, which the respondents are trying to recover after five years of his superannuation. The petitioner superannuated as Assistant Controller from Damodar Vally Corporation. It is the case of the respondents that since admittedly, the amount was paid in excess, the same needs to be recovered thus, the order was passed.

Admittedly, the recoveries being sought to be made is after five years of superannuation. Admittedly, there is nothing on record to suggest that there was fraud or misrepresentation on the part of the petitioner. It is the mistake which the respondents have committed without there being any misrepresentation by the petitioner.

4. The Hon'ble Supreme Court in the case of ***State of Punjab v. Rafiq Masih,*** reported in **(*2015) 4 SCC 334*** has held that no recovery can be made from the employee after superannuation. In paragraph 18 the Hon'ble Supreme Court has held as under:-

> *"**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 hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*
> *(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*
> *(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
> *(iii) Recovery from the 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."*

5. Considering the judgment of the Hon'ble Supreme Court and the facts of this case, I find that this case is covered by the judgment of the Hon'ble Supreme Court. Since, there is no misrepresentation on the part of the petitioner and respondents are seeking to recover excess amount after five years of his superannuation, the impugned order from recovery is set aside.

6. Accordingly, this writ petition stands **allowed**.

7. So far as the claim of the petitioner of one month salary, which is

due, respondents will consider the same and if it is found that the same is due and if there is no other legal impediment they will refund the same to the petitioner.

8. I.A. No.10577 of 2025 stands disposed of.

(ANANDA SEN, J.)

08th December, 2025
R.S.
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