

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P.(S) No. 5272 of 2019**

Ramsai Manjhi, son of late Nanda Manjhi, resident of Murakati, P.O.
Murakati, P.S. Gurabandha, Via Bahragora, District-East Singhbhum
..... Petitioners

Versus

1. The State of Jharkhand
2. The Secretary, Water Resources Department, Ranchi
3. The Divisional Commissioner, Singhbhum Division, East Singhbhum
4. The Chief Engineer Swarnarekha Multipurpose Project, Echa-Galudih Complex, Adityapur, Seraikella-Kharswan
5. The Superintending Engineer, Swarnarekha, Swarnarekha Multipurpose Project Monitoring Circle, Adityapur, Seraikella-Kharsawan
6. The Executive Engineer Kharkai Canal Bandh No. 2, Echa-Chaliama, Adityapur, Seraikella-Kharswan.
7. The Account General, Ranchi

..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Ravi Kumar Singh, Advocate
For the Respondent-State : Mr. Rohit, A.C. to A.A.G.-1
For the Respondent No. 7 : Mr. Suresh Kumar, Advocate

04/08.07.2020

1. Heard, Mr. Ravi Kumar Singh, learned counsel appearing for the petitioner, Mr. Rohit, learned counsel for the respondent State and Mr. Suresh Kumar, learned counsel appearing for the respondent no.7.
2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.
3. Petitioner has preferred this writ petition for quashing office order dated 20.10.2011 and for quashing letter dated 07.01.2015 whereby and whereunder a recovery of Rs. 2,15,381/- has been directed to be made from the petitioner.
4. Mr. Ravi Kumar Singh, learned counsel for the petitioner submits that petitioner was appointed as Junior Assistant along with several other persons

vide office order contained in memo no. 108 dated 31.01.1984. The petitioner passed all the departmental examinations finally in October, 1993. The petitioner was granted junior and senior selection grades with effect from 14.02.1989 and 14.02.1994 respectively vide office order contained in Memo No. 1195 dated 09.11.1999. He further submits that the Government came out with a resolution dated 08.02.1999 for implementation of the recommendation of the 5th Pay Commission. The clause 11 of the resolution provides that all “Time Bound” promotions as well as the selections grades granted to the employees would stand cancelled in the new pay scales. Accordingly, the senior selection grade granted to the petitioner along with that of others were cancelled and direction was issued to recover the amount which has been paid due to such promotion. He further submits that although the petitioner passed the departmental examinations in October, 1993 but he was given junior selection grades. He further submits that on one hand the respondents are cancelling the legally granted selection grades to the petitioner and on the other hand, they are not paying the legal dues and arrears of salary to the petitioner. He further submits that direction to recover Rs. 2,15,381/- is arbitrary. He further submits that in an identical matter has been decided in the case of “*Sanat Kuamr Dash Vs. The State of Jharkhand & Ors*” (W.P.(S) No. 149 of 2012 dated 12.12.2017 by a Co-ordinate Bench of this Court whereby impugned order has been quashed. He further submits that in another similar matter has been decided in W.P.(S) No. 888/2012 by a Co-ordinate Bench of this Court. He further submits that in view of resolution dated 08.11.2018, the Government of Jharkhand has taken decision that no recovery shall take place. The petitioner has filed representation but nothing has been done. He further submits that the case of the petitioner is fully covered with judgment rendered in the case of “*Sanat Kumar Das*” (Supra).

5. Mr. Rohit, learned counsel appearing for the respondent-State

submits that the case of the petitioner is fit to be rejected. He further submits that the petitioner has approached the Court after much delay. Hence, the case of the petitioner is fit to be rejected. He further submits that in this regard reference may be made to the judgment rendered in the case of “*State of Uttar Pradesh & Others Vs. Arvind Kumar Srivastava & Others*” reported in *2015 (1) SCC 347* and *L.P.A. No. 632 of 2018 (Ritesh Ranjan Kumar Vs. The State of Jharkhand & Ors)*.

6. By way of reply of the argument of Mr. Rohit, learned counsel for the respondent-State, Mr. Ravi Kumar Singh, learned counsel for the petitioner submits that the State has already taken decision on 08.11.2018 contained in Annexure-9 whereby it has been decided that no recovery should be made from the employee of the State Government, if it has been paid inadvertently or by mistake and in this view of the matter, argument of Mr. Rohit, learned counsel for the respondent-State is not tenable. Learned counsel for the petitioner further submits that this aspect of the matter has not been considered in the case of *State of Uttar Pradesh & Others (Supra)* and *L.P.A. No. 632/2018 Ritesh Ranjan Kumar (Supra)*.

7. Mr. Ravi Kumar Singh, learned counsel for the petitioner further submits that order of recovery has been passed in the year, 2015 and Circular of the State Government is of the year, 2018 whereas the petitioner has filed this writ petition in the year, 2019 and in this view of the matter, there is no delay.

8. The Court has perused the Annexure-9 which is of the year, 2018 and order of recovery has been passed in the year, 2015. The petitioner has approached this Court in the year, 2019 and in this view of the matter on the ground of delay and laches, writ petition cannot be dismissed. The Court does not find force in the submission of Mr. Rohit, learned counsel for the respondent-State. So far as, judgments relied by the learned counsel for respondent-State are

not applicable in the facts and circumstances of the case.

9. In view of specific averments made by the learned counsel for the petitioner, it is appropriate to dispose of the writ petition in the light of order passed in W.P.(S) No. 149 of 2012. Accordingly, impugned order dated 20.10.2011 is quashed, so far it relates to petitioner and the recovered amount, if any, also be refunded to the petitioner. Respondents are further directed to make payment of arrears of salary and arrears of 6th Pay Revision and other admissible dues, if any within a period of twelve weeks from the date of receipt/production of copy of this order.

10. With the aforesaid observation and direction, the writ petition stands allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)