courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.

Website: www.courtkutchehry.com

Printed For:

Date: 28/10/2025

Basudeo Mehra Vs State of Jharkhand and Others

Writ Petition (S) No. 5823 of 2001

Court: Jharkhand High Court

Date of Decision: July 5, 2002

Acts Referred:
Constitution of India, 1950 â€" Article 226

Citation: (2003) 1 JCR 234

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: Rajiv Ranjan and A.K. Mishra, for the Appellant; S. Srivastava, for the Respondent

Final Decision: Allowed

Judgement

M.Y. Eqbal, J.
Petitioner is aggrieved by the order dated 3.3.2000 issued by the District Superintendent of Education, Deghar, whereby

he has directed for recovery of Rs. 49,756/- from the gratuity/pension payable to the petitioner and also order dated 13.4.2000 passed by Senior

Account Officer, Accountant General, Bihar whereby the aforesaid amount has been recovered from the amount of gratuity payable to the

petitioner.

2. Petitioner was serving as Head-clerk in the department of Education and superannuated on 31.1.2002 from the office of the District Education

Officer, Deoghar. It appears that the petitioner was appointed in 1962 and after serving for a long period he retired in January, 2002. After his

retirement, the District Superintendent of Education issued an order to the effect that there was wrong fixation of salary of the petitioner from

1,4.1981 to 31,3.1983 instead of payment of salary at the pay scale of Rs. 680-965/-, he was paid salary at the pay scale of Rs. 730-1080/-.

Similarly, from 1983 to 1989 instead of his salary at the pay scale of Rs. 730-1080/-, he was paid salary at the scale of Rs. 785-1210/-. In this

way he was paid excess salary which is recoverable from him.

3. From perusal of the said order, it does not appear that because of misrepresentation by the petitioner or because of any sought of fraudulent

conduct, petitioner was paid excess salary. There is no allegation against the petitioner for the withdrawal of salary in the higher pay scale. In that

view of the matter, I am of the opinion that the excess amount of salary, if any, drawn by the petitioner not because of misrepresentation, cannot be

recovered. This question has been settled by this Court in several decisions. The impugned orders therefore cannot be sustained in law.

4. This writ application is therefore, allowed and the impugned orders dated 3.3.2000 and 14.4.2000, as contained in Annexures-1 and 2 to the

writ application are hereby set aside. Respondents are directed to refund the aforesaid amount which has been illegally recovered from the gratuity

of the petitioner.