RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 10114/2018
CNR: RJHC020332712018 | URN: CW / 16580U / 2018

Rajasthan High Court
सत्यमेव जयते
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1. The Union Of India Through Its Secretary, Ministry Of Science And Technology, Department Of Science, Technology Bhawan. New Mehrauli Road, New Delhi.
2. Surveyor General, Survey Of India, Hathibarakla Estate, Post Box No. 37, Dehradun, Uttarakhand - 248001
3. Principal Accounts Office, Through Principal Accountant, Ministry Of Science And Technology, Depart, Technology Bhawan. New Mehrauli Road, New Delhi.

----Petitioners

Versus

Sh. Ashok Prim S/o Sh. H.k. Prim, R/o Flat No. B-301, Shaitan Singh Vihar, Awho, Sector 1, Vidhyadhar Nagar, Jaipur, Rajasthan, New Present Address Residing At A-801, The Grand Residency, Kanak Vrindavan Township, Sirsi Road, Jaipur-303041, Rajasthan.

----Respondent

Connected With

D.B. Civil Writ Petition No. 14774/2020
CNR: RJHC020748212020 | URN: CW / 28127U / 2020

1. The Union Of India, Through Its Secretary, Ministry Of Mines, Department Of Mines, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.
2. Geological Survey Of India, Through Its Director General, 27-Jawaharlal Nehru Road, Kolkata.
3. Additional Director General And Head Of The Department, Geological Survey Of India, Gsi Complex, Khaniz Bhawan, 15-16, Jhalana Doongari, Jaipur.
4. Senior Pay And Account Officer (Pao), Gsi Complex, Khaniz Bhawan, 15-16, Jhalana Doongari, Jaipur.

----Petitioners

Versus

Dr. Girish Malhotra S/o Shri Raj Hans Malhotra, Aged About 66 Years, R/o 4-A, Indira Nagar, Gopalpura Mod, Jaipur, Rajasthan, Earlier Working As Director, Gsi, W.r. Jaipur (Group-A Service)

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RAJASTHAN HIGH COURT
सत्यमेव जयते

----Respondent

D.B. Civil Writ Petition No. 14844/2020
CNR: RJHC020752822020 | URN: CW / 28266U / 2020

1. The Union Of India, Through Its Secretary, Ministry Of Mines, Department Of Mines, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.
2. Geological Survey Of India, Through Its Director General, 27-Jawaharlal Nehru Road, Kolkata.
3. Additional Director General And Head Of The Department, Geological Survey Of India, Gsi Complex, Khaniz Bhawan, 15-16, Jhalana Doongri, Jaipur.
4. Senior Pay And Account Officer (Pao), Gsi Complex, Khaniz Bhawan, 15-16, Jhalana Doongari, Jaipur.

----Petitioners

Rajasthan High Court
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Versus

Z. Iqbal S/o Late Hakimuddn Nisar, Aged About 66 Years, 46, Kidwai Nagar, Jaipur, Rajasthan, Retired As Dy. Director General, Gsi, Jaipur (Group-A Service)

----Respondent

D.B. Civil Writ Petition No. 14848/2020
CNR: RJHC020752842020 | URN: CW / 28278U / 2020

1. The Union Of India, Through Its Secretary, Ministry Of Mines, Department Of Mines, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.
2. Geological Survey Of India, Through Its Director General, 27-Jawaharlal Nehru Road, Kolkata.
3. Additional Director General And Head Of The Department, Geological Survey Of India, Gsi Complex, Khaniz Bhawan, 15-16, Jhalana Doongri, Jaipur.
4. Senior Pay And Account Officer (Pao), Gsi Complex, Khaniz Bhawan, 15-16, Jhalana Doongari, Jaipur.

----Petitioners

Versus

Purushottam Shrivastava S/o Shri H.s.n. Shrivastava, Aged About 62 Years, R/o 111/191,vijay Path, Madhyam Marg, Mansarovar, Jaipur. Earlier Working As Dy. Dg, Gsi, Wr, Jaipur (Group-A) Service.

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----Respondent

For Petitioner(s)	:	Mr. C.S. Sinha with Mr. Rakesh Choudhary, Mr. Mayank Kamwar.
For Respondent(s)	:	Mr. Amit Mathur, with Ms. Sanskriti Gautam.

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HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MRS. JUSTICE SANGEETA SHARMA

Order

23.11.2026

1. These writ petitions have been filed by the petitioners (hereinafter to be referred as 'Department') challenging the orders dated 30.05.2016 and 17.11.2017 passed by the Central Administrative Tribunal, Jaipur Bench, Jaipur (hereinafter to be referred as 'Tribunal').

2. Brief facts of the case are that the respondents (hereinafter to be referred as 'Employees'), while serving with the Department, received certain amounts towards Transport Allowance. Subsequently, the Department initiated proceedings making recovery from the employees of the amounts already paid to the Employees towards Transport Allowance. The said recovery orders were challenged by the Employees before the learned Tribunal by filing original application. The Tribunal, vide orders dated 30.05.2016 and 17.11.2017, allowed the Original Applications filed by the Employees and quashed the recovery orders, relying upon the judgment passed by the Hon'ble Supreme Court in the matter of **'State of Punjab & Ors. Vs. Rafiq Masih** reported in **2015 (4) SCC 334**.

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3. Being aggrieved by the orders dated 30.05.2016 and 17.11.2017 passed by the learned Tribunal, the Department has preferred these writ petitions before this Court.

4. Learned counsel appearing on behalf of the Department submits that although the Tribunal allowed the original applications relying upon the judgment passed by the Hon'ble Supreme Court in the matter of **State of Punjab & Ors. (supra)**, however, the Hon'ble Supreme Court in a recent judgment delivered in the matter of **Dr. M.K. Ravi Varma Etc. Vs. National Institute of Technology and Ors.** (Civil Appeal Nos. 8329-8336 of 2016), decided on 23.09.2026, has held that excess payments made to an employee can be recovered where the employee has furnished an undertaking agreeing to refund the excess amount, if any, paid on account of erroneous pay fixation.

5. In support of his submissions, learned counsel relied upon para Nos.17 & 18 of the said judgment, which read as under:-

> "17. In Jagdev Singh (supra), the coordinate Bench considered paragraph 18 of Rafiq Masih (White Washer) (supra), extracted above, and explained the legal position as follows:
>
> > "11. The principle enunciated in Proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking."
>
> 18. Respondents, as appellants before the Division Bench of the High Court, had placed Exhibit R2(c) which contained an undertaking given by the appellants conveying their

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> willingness to permit recovery of such amounts in the event that the pay fixation was found to be erroneous. It was, thus, contended that the respondents had merely corrected the mistake in accordance with the entitlement of the appellants under the applicable rules."

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6. Learned counsel appearing on behalf of the Employees opposed the submissions made by learned counsel for the Department and submits that the issue involved in the present matters is squarely covered by the judgment passed by a Co-ordinate Bench of this Court in the matter of **Om Prakash Tripathi Vs. Union of India & Anr.** (D.B. Civil Writ Petition No. 14094/2021), decided on 21.09.2023. In the said judgment, the Co-ordinate Bench, after considering the judgments passed by the Hon'ble Supreme Court in the matters of **State of Punjab & Ors. Vs. Rafiq Masih (supra)** and **Thomas Daniel Vs. State of Kerala & Ors.**, reported in **AIR 2022 SC 2153**, along with various other judgments of the Hon'ble Supreme Court, dismissed the writ petition filed by the Department and upheld the order passed by the Tribunal quashing the recovery orders.

7. The relevant para of the judgment dated 21.09.2023 passed by the Co-ordinate Bench of this Court reads as under:-

> "7.3) In the case of **Thomas Daniel (supra)**, the Apex Court, after meticulously considering previous judgments of **Col. B.J. Akkara (Retd.) v. Government of India** reported in **(2006) 11 SCC 709, Syed Abdul Qadir and Ors. v. State of Bihar and Ors.** reported in **(2009) 3 SCC 475 and Rafiq Wasih (supra)**, held that the excess payment of emoluments or allowances to an employee are not recoverable if it was on the basis of a particular interpretation of rule/order which is subsequently found to be erroneous. The

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operative portion of the said judgment is reproduced as under:

> "14. Coming to the facts of the present case, it is not contended before us that on account of the misrepresentation or fraud played by the appellant, the excess amounts have been paid. The appellant has retired on 31.03.1999. **In fact, the case of the respondents is that excess payment was made due to a mistake in interpreting Kerala Service Rules which was subsequently pointed out by the Accountant General**.
>
> 15. Having regard to the above, we are of the view that an attempt to recover the said increments after passage of ten years of his retirement is unjustified."

8. Heard counsel for the parties and perused the material available on record.

9. We have carefully gone through the judgment passed by the Hon'ble Supreme Court in the matter of **Dr. M.K. Ravi Varma Etc. (supra)**, relied upon by learned counsel for the Department. A perusal of para No. 18 of the said judgment reveals that the Hon'ble Supreme Court took into consideration the undertaking furnished by the employees therein, where they had agreed to permit recovery of excess amount, if any, paid to them on account of erroneous pay fixation. However, in the present matters, admittedly there is no such undertaking of the employees specifically agreeing for the recovery of excess amounts paid towards Transport Allowance.

10. We have also considered the fact that the Department has placed on record an undertaking furnished by one of the Employees with regard to excess payment arising out of pay

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fixation. However, the said undertaking was admittedly furnished prior to the grant of Transport Allowance to the concerned Employee. Therefore, in our considered view, such an undertaking cannot be construed as consent given by the Employee for recovery of excess amounts paid towards Transport Allowance. Therefore, the judgment relied upon by learned counsel for the Department delivered by the Hon'ble Supreme Court in the matter of **Dr. M.K. Ravi Varma Etc. (supra)** has no application in the facts and circumstances of the present matters.

11. We have also considered the judgment passed by a Co-ordinate Bench of this Court in the matter of **Om Prakash Tripathi (supra)**, wherein, after considering various judgments passed by the Hon'ble Supreme Court as well as this Court, the writ petition filed by the Department was dismissed and the order passed by the Tribunal quashing the recovery orders was upheld.

12. In view of the discussion made hereinabove, we find no ground to interfere with the orders passed by the learned Tribunal.

13. Accordingly, these writ petitions are dismissed. Copy of the order be separately placed in each connected file.

(SANGEETA SHARMA),J (INDERJEET SINGH),J

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