



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 14647 OF 2023 (S-RES)

BETWEEN:

SHIVANANJA
S/O CHALUVAIAH
AGED ABOUT 64 YEARS
RETIRED SENIOR MECHANIC CESCO
HASSAN, O & M DIVISION, HASSAN
R/AT 1ST CROSS, JPN LAYOUT
MARUTHINAGARA, ARASIKERE
HASSAN DISTRICT - 573 103.

...PETITIONER

(BY SMT. SANGEETHA, ADVOCATE FOR
SRI. SRINIVASA K., ADVOCATE)

AND:

1. DIRECTOR (A & HR)
KPTCL, KAVERI BHAVANA
BANGALORE - 560 009.
2. CHIEF GENERAL MANAGER (F & C)
CESCOM, CORPORATE OFFICE
MYSORE - 570 017.
3. SUPERINTENDING ENGINEER (ELE)
CESCOM, O & M, HASSAN CIRCLE
HASSAN - 573201.
4. EXECUTIVE ENGINEER (ELE)
CESCOM, O & M HASSAN DIVISION
NEAR NEW BUS STAND, MYSORE ROAD
HASSAN - 573 201.

...RESPONDENTS





(BY SRI. LAKSHMIKANTHA K B., ADVOCATE FOR R1 & R3:
R2 & R4 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED OFFICIAL MEMORANDUM BEARING NO: ಕಾಇಂ (ಎ)/ ಲೆ/ಸಲೆ1/ಸಿಸ1/2019-20/5597 DATED: 22.8.2019, ISSUED BY THE R-4 VIDE ANNEXURE-B TO THE WRIT PETITION AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed under Articles 226 and 227 of the Constitution of India, challenging the impugned Official Memorandum dated 22.08.2019, issued by the fourth respondent vide Annexure-B, directing recovery of a sum of Rs.2,48,330/- from the retirement benefits of the petitioner on the ground that excess payment had been made to him while he was in service.

2. The case of the petitioner is that he was appointed as an Assistant Lineman in the year 1983 in the respondent-Corporation. While he was working in the cadre of Senior Mechanic, he retired from service on



31.07.2019. By the impugned official memorandum, the fourth respondent directed recovery of a sum of Rs. 2,48,330/- from the petitioner on the ground that, at the time of fixation of his pay, an excess amount had been paid.

3. The Apex Court, in **STATE OF PUNJAB AND OTHERS VS. RAFIQ MASIH (WHITE WASHER) AND OTHERS** reported in **(2015) 4 SCC 334**, has held that if an excess amount is paid to an employee due to a mistake committed by the employer, the same cannot be recovered. The relevant paragraph is extracted below:

"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."

4. In view of the above, the following order:

i) The writ petition is allowed.



- ii) The impugned Official Memorandum dated 22.08.2019 issued by respondent No.4 vide Annexure-B is quashed.
- iii) The respondent No.4 is directed to refund any amount that may have been deducted from the petitioner's retirement benefits, along with interest at the rate of 6% per annum.
- iv) The petitioner's right to avail the benefit of such refund with interest is reserved with liberty to file a representation to the fourth respondent within two weeks from the date of receipt of a copy of this order.
- v) If such a representation is filed, the fourth respondent is directed to pass suitable orders within a period of six weeks from the date of such representation.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE