

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO.25355 OF 2011

STATE OF PUNJAB & ORS. . .PETITIONER(S)

VERSUS

SOM NATH GUPTA . .RESPONDENT(S)

WITH

SPECIAL LEAVE PETITION (C) NO.23268 OF 2011

SPECIAL LEAVE PETITION (C) NO.25356 OF 2011

SPECIAL LEAVE PETITION (C) NO.25357 OF 2011

SPECIAL LEAVE PETITION (C) NO.25359 OF 2011

SPECIAL LEAVE PETITION (C) NO.25360 OF 2011

SPECIAL LEAVE PETITION (C) NO.25361 OF 2011

SPECIAL LEAVE PETITION (C) NO.25362 OF 2011

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SPECIAL LEAVE PETITION (C) NO.25363 OF 2011

NEETU KHAJURIA
Date: 2015.02.26
11:18:03 IST
Reason:

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SPECIAL LEAVE PETITION (C) NO.25366 OF 2011

SPECIAL LEAVE PETITION (C) NO.25367 OF 2011

SPECIAL LEAVE PETITION (C) NO.25369 OF 2011

SPECIAL LEAVE PETITION (C) NO.25370 OF 2011

SPECIAL LEAVE PETITION (C) NO.25377 OF 2011

SPECIAL LEAVE PETITION (C) NO.25378 OF 2011

SPECIAL LEAVE PETITION (C) NO.25379 OF 2011

SPECIAL LEAVE PETITION (C) NO.25380 OF 2011

SPECIAL LEAVE PETITION (C) NO.25381 OF 2011

SPECIAL LEAVE PETITION (C) NO.25382 OF 2011

O R D E R

1. These Special Leave Petitions are directed against the final judgment(s) and

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order(s) passed by the High Court of Punjab and Haryana in Civil Writ Petition No. 893 of 2008, dated 03.12.2010, whereby and whereunder, the High Court allowed the appeal partly, relying upon the judgment and order in the case of Sudarshna Devi and Anr. v. State of Punjab and Ors. in Civil Writ Petition No. 16323/2008, dated 02.03.2010 and in the case of Budh Ram and Ors. v. State of Haryana in Civil Writ Petition No. 2799/2008, dated 22.05.2009. It was held that the respondents shall continue to draw their retiral benefits and no recovery shall be effected from them. It was further directed that the amount, if already recovered, shall be refunded to the respondents. The instant special leave petition impugns the judgment and order of the High Court to the extent it holds that no recovery shall be effected from the respondents and to refund the amount which is already recovered from the respondents.

2. The issues raised in these special leave petitions are more or less identical with the issues raised and considered by this Court in Civil Appeal No.11527 of 2014 "State of Punjab and Others Etc. vs. Rafiq Masih (White Washer) Etc.", 2014 (14) Scale 300, and connected matters, disposed of on 18.12.2014. In the said case the issue pertained to grant of monetary benefits to the employees, which were in excess of their entitlement. The benefits had flowed to them, consequent upon a mistake committed by the concerned competent authority, in determining the emoluments payable to them. Thus the issue in the said case was, whether the respondents, against whom an order of recovery (of the excess amount) has been made, should be exempted in law, from the reimbursement of the same to the employer?

3. This court while answering the above issue observed the following:

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"Having examined a number of judgments rendered by this Court, we are of the view, that orders passed by the employer seeking recovery of monetary benefits wrongly extended to employees, can only be interfered with, in cases where such recovery would result in a hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recover. In other words, interference would be called for, only in such cases where, it would be iniquitous to recover the payment made."

This Court further observed the following:

"As between two parties, if a determination is rendered in favour of the party, which is the weaker of the two, without any

serious detriment to the other (which is truly a welfare State), the issue resolved would be in consonance with the concept of justice, which is assured to the citizens of India, even in the preamble of the Constitution of India. The right to recover being pursued by the employer, will have to be compared, with the effect of the recovery on the concerned employee. If the effect of the recovery from the concerned employee would be, more unfair, more wrongful, more

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improper, and more unwarranted, than the corresponding right of the employer to recover the amount, then it would be iniquitous and arbitrary, to effect the recovery. In such a situation, the employee's right would outbalance, and therefore eclipse, the right of the employer to recover."

4. Therefore, following the observations made in the aforesaid civil appeals, these special leave petitions filed by the State of Punjab are also disposed of.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(A.K. SIKRI)

.....J.
(ARUN MISHRA)

NEW DELHI;
FEBRUARY 18, 2015.

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Petition(s) for Special Leave to Appeal (C)No. 25355/2011

(Arising out of impugned final judgment and order dated 03/12/2010 in CWP No. 893/2008 passed by the High Court of Punjab & Haryana at Chandigarh)

STATE OF PUNJAB & ORS.

Petitioner(s)

VERSUS

SOM NATH GUPTA

Respondent(s)

(With office report)

WITH

SLP(C) No. 23268/2011

(With prayer for interim relief and Office Report)

SLP(C) No. 25356/2011

(With Office Report)

SLP(C) No. 25357/2011

(With Office Report)

SLP(C) No. 25359/2011

(With Office Report)

SLP(C) No. 25360/2011

(With Office Report)

SLP(C) No. 25361/2011

(With Office Report)

SLP(C) No. 25362/2011

(With Office Report)

SLP(C) No. 25363/2011

(With Office Report)

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SLP(C) No. 25366/2011

(With Office Report)

SLP(C) No. 25367/2011

(With Office Report)

SLP(C) No. 25369/2011

(With Office Report)

SLP(C) No. 25370/2011

(With Office Report)

SLP(C) No. 25377/2011

(With Office Report)

SLP(C) No. 25378/2011

(With Office Report)

SLP(C) No. 25379/2011

(With Office Report)

SLP(C) No. 25380/2011

(With Office Report)

SLP(C) No. 25381/2011

(With Office Report)

SLP(C) No. 25382/2011
(With Office Report)

Date: 18/02/2015 These petitions were called
 on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Mr. Nikhil Nayyar, AAG
 Mr. Dhananjay Baijal, Adv.
 Mr. Kuldip Singh, Adv.

 Ms. Kaveeta Wadia, Adv.

For Respondent(s) Mr. P.N. Puri, Adv.
 Mr. Abhishek Puri, Adv.

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Mr. Amit Chopra, Adv.
Ms. Reeta Dewan Puri, Adv.

Mr. Gaurav Sharma, Adv.

Mr. Dinesh Verma, Adv.
Mr. Rajat Sharma, Adv.
Mr. Subhashish Bhowmick, Adv.

Mr. S. K. Sabharwal, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

Special leave petitions are disposed of
in terms of the signed order.

Pending application(s), if any, stand
disposed of.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

(Signed order is placed on the file.)