

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).24607/2010

(From the judgement and order dated 16/03/2010 in CWP No.4671/2010 of The  
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF PUNJAB & ORS.

Petitioner(s)

VERSUS

KRISHAN KUMAR BANSAL & ORS.

Respondent(s)

(With prayer for interim relief and office report)  
(For final disposal)

WITH

SLP(C)No.694/2011

(With office report)

(For final disposal)

SLP(C) NO. 36577 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36488 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36500 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36489 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36490 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36495 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36491 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36504-36505 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36493-36494 of 2010

(With office report)

(For final disposal)

SLP(C) NO. 36578 of 2010

(With appln.(s) for exemption from filing c/c of the impugned order and  
office report)

(For final disposal)

SLP(C)No.36581 of 2010

(With office report)

(For final disposal)

SLP(C)No.36579 of 2010

(With appln.(s) for exemption from filing O.T. and permission to file  
additional documents and office report)

(For final disposal)

SLP(C)No.36582 of 2010

(With office report)

(For final disposal)

SLP(C)No.36503 of 2010

(With appln.(s) for exemption from filing c/c of the impugned order and  
office report)

(For final disposal)

SLP(C)No.36583 of 2010  
(With appln.(s) for permission to file addl.documents and office report)  
(For final disposal)  
SLP(C)No.36501 of 2010  
(With appln.(s) for exemption from filing c/c of the impugned order and  
office report)  
(For final disposal)  
SLP(C)No.36506 of 2010  
(With office report)  
(For final disposal)  
SLP(C)No.36502 of 2010  
(With appln.(s) for exemption from filing c/c of the impugned order and  
office report)  
(For final disposal)  
SLP(C)No.36584 of 2010  
(With appln.(s) for exemption from filing c/c of the impugned judgment and  
office report)  
(For final disposal)  
SLP(C)No.34314 of 2010  
(With prayer for interim relief and office report)  
(For final disposal)  
SLP(C)No.961 of 2011  
(With office report)  
(For final disposal)  
SLP(C)No.1044 of 2011  
(With appln.(s) for exemption from filing c/c of the impugned order and  
office report)  
(For final disposal)  
SLP(C)No.1042 of 2011  
(With appln.(s) for exemption from filing c/c of the impugned order and  
office report)  
(For final disposal)  
SLP(C)No.2718 of 2011  
(With office report)  
(For final disposal)  
SLP(C)No.24840 of 2010  
(With prayer for interim relief and office report)  
(For final disposal)  
SLP(C)No.24843 of 2010  
(With prayer for interim relief and office report)  
(For final disposal)  
SLP(C)No.25403 of 2010  
(With prayer for interim relief and office report)  
(For final disposal)  
SLP(C)No.2705-2707 of 2011  
(With office report)  
(For final disposal)  
SLP(C)No.25605 of 2010  
(With prayer for interim relief and office report)  
(For final disposal)  
SLP(C)No.3988 of 2011  
(With appln.(s) for c/delay in filing SLP and office report)  
(For final disposal)  
SLP(C)No.7242 of 2011  
(With office report)  
(For final disposal)  
SLP(C)No.3655 of 2011  
(With office report)  
(For final disposal)  
SLP(C)No.3669 of 2011  
(With office report)  
(For final disposal)  
SLP(C)No.....CC 3378 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and  
office report)  
(For final disposal)  
SLP(C)No.8134 of 2011  
(With prayer for interim relief and office report)  
(For final disposal)

SLP(C)No.8135 of 2011  
(With office report)  
(For final disposal)

SLP(C)No.4306-4307 of 2011  
(With appln.(s) for c/delay in filing SLP and office report)

SLP(C)No.4334 of 2011  
(With appln.(s) for c/delay in filing SLP and office report)

SLP(C)No.4318 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4338 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4340 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4310 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4325 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4329 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4313 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.4328 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.3644 of 2011  
(With office report)

SLP(C)No.3652 of 2011  
(With office report)

SLP(C)No.8188 of 2011  
(With office report)

SLP(C)No.688 of 2011  
(With office report)

SLP(C)No.2115 of 2011  
(With office report)

SLP(C)No.2117 of 2011  
(With office report)

SLP(C)No.2120 of 2011  
(With office report)

SLP(C)No.2125 of 2011  
(With office report)

SLP(C)No.2122 of 2011  
(With office report)

SLP(C)No.2126 of 2011  
(With office report)

SLP(C)No.2127 of 2011  
(With office report)

SLP(C)No.2144 of 2011  
(With office report)

SLP(C)No.2145 of 2011  
(With appln.(s) for stay and office report)

SLP(C)No.6957 of 2011  
(With office report)

SLP(C)No.6959 of 2011  
(With office report)

SLP(C)No.8659 of 2011  
(With office report)

SLP(C)No.....CC 6916 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.....CC 7175 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.7212 of 2011  
(With office report)

SLP(C)No.14381 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14382 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14386 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14388 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14387 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14448 of 2011  
(With appln.(s) for c/delay in filing SLP and office report)

SLP(C)No.15002 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14385 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.15005 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14927-14935 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14400 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.14401 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.22569 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.22582 of 2011  
(With appln.(s) for c/delay in filing SLP and office report)

SLP(C)No.22570 of 2011  
(With appln.(s) for c/delay in filing SLP and c/delay in refiling SLP and office report)

SLP(C)No.22583 of 2011  
(With appln.(s) for c/delay in filing SLP and office report)

SLP(C)No.20409 of 2011  
(With office report)

SLP(C)No.20411 of 2011  
(With office report)

SLP(C)No.20414 of 2011  
(With office report)

SLP(C)No.20415 of 2011  
(With office report)

SLP(C)No.20418 of 2011  
(With office report)

SLP(C)No.20419 of 2011  
(With office report)

SLP(C)No.20420 of 2011  
(With office report)

SLP(C)No.20421 of 2011  
(With office report)

SLP(C)No.20422 of 2011  
(With office report)

SLP(C)No.19536 of 2011  
(With office report)

SLP(C)No.1053 of 2011  
(With office report)

SLP(C)No.25782 of 2011  
(With office report)  
SLP(C)No.25783 of 2011  
(With office report)  
SLP(C)No.25784 of 2011  
(With office report)  
SLP(C)No.25787 of 2011  
(With office report)  
SLP(C)No.25788 of 2011  
(With office report)  
SLP(C)No.25790 of 2011  
(With office report)  
SLP(C)No.25791 of 2011  
(With office report)  
SLP(C)No.25792 of 2011  
(With office report)  
SLP(C)No.25789 of 2011  
(With office report)  
SLP(C)No.25793 of 2011  
(With office report)  
SLP(C)No.25794 of 2011  
(With office report)  
SLP(C)No.25795 of 2011  
(With office report)  
SLP(C)No.25796 of 2011  
(With office report)  
SLP(C)No.25676 of 2011  
(With office report)  
SLP(C)No.9876-9878 of 2012  
(With prayer for interim relief and office report)  
SLP(C)No.37094 of 2012  
(With office report)  
SLP(C)No.34401 of 2012  
(With office report)  
SLP(C)No.34402 of 2012  
(With office report)  
SLP(C)No.8544 of 2013  
(With office report)  
SLP(C)No.12680 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12681 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12682 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12683 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12685 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12687 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12689 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12691 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12694 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12696 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)  
SLP(C)No.12698 of 2013  
(With appln.(s) for c/delay in filing SLP and office report)

Date: 02/08/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.Nikhil Nayyar, AAG  
Mr. Jagjit Singh Chhabra, Adv.

Mr.Pardaman Singh, Adv.  
Mr.Gaurav Yadav, Adv.

Ms. Naresh Bakshi, Adv.

Ms. Kavita Wadia, Adv.

Mr. Kuldip Singh, Adv.

For Respondent(s)

Mr.R.K.Kapoor, Adv.  
Ms.Shiwani M., Adv.  
Mr.Rajat Kapoor, Adv.  
Mr. Anis Ahmed Khan, Adv.

Mr.Karan Dewan, Adv.  
Mr.Rahul Gupta, Adv.

Mr.Harsh Chandra Pant, Adv.

Mr. Bhaskar Y. Kulkarni, Adv.

Mr. K.K. Mohan, Adv.

Mr. M.K. Dua, Adv.

Mr. P.N. Puri, Adv.

Mr. Prem Sunder Jha, Adv.

Mr. S.L. Aneja, Adv.

Mr. S.K. Sabharwal, Adv.

Mr. Sudhir Kumar Gupta, Adv.

Mrs. Shiel Sethi, Adv.

Mr. Yash Pal Dhingra, Adv.

Mr.Khwairakpam Nobin Singh, Adv.

Dr. (Mrs.) Vipin Gupta, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

Mr. Kuldip Singh, Adv.

Mr. Dharmendra Kumar Sinha, Adv.

Mrs. Kanchan Kaur Dhodi, Adv.

Mr. Vineet Bhagat, Adv.

Mr. Sudarshan Singh Rawat, Adv.

Mr. Purvish Jitendra Malkan, Adv.

Mr. Satish Kumar, Adv.

Mr. Rahul Gupta, Adv.

Ms. Madhusmita Bora, Adv.

Dr. Vinod Kumar Tewari, Adv.

Mr.Mukesh Kumar Singh, Adv.  
Mr.Mukesh Salathia, Adv.  
Mr.Nidhi Ram Sharma, Adv.  
Mr. Purushottam Sharma Tripathi, Adv.

Mr.Tushar Bakshi, Adv.

Mr.A.Venayagam Balan, Adv.

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

Delay condoned.

These petitions are directed against the orders passed by the learned Single Judges of the Punjab and Haryana High Court whereby recovery of the alleged excess amount paid to the respondents was quashed by relying upon the order passed by the Full Bench in Civil Writ Petition No.2799 of 2008 - Budh Ram and others vs. State of Haryana and others and the orders passed by other learned Single Judges.

We have heard Shri Nikhil Nayyar, learned Additional Advocate General appearing on behalf of the petitioners at length and carefully perused the record.

Shri Nayyar fairly conceded that in none of these cases, the respondents were responsible for mistake committed in the fixation of their pay. He, however, relied upon the judgment of a two-Judge Bench in Chandi Prasad Uniyal v. State of Uttarakhand (2012) 8 SCC 417 and argued that the amount erroneously paid to the employees can be recovered from them even though they may not be responsible for wrong fixation of their pay, etc.

In our opinion, there is no merit in the argument of the learned Additional Advocate General. By an order dated On 29.07.2013, a three Judge Bench dismissed Special Leave Petition (Civil)...../2010 (CC 14563 of 2010) which was directed against order dated 22.07.2009 passed by the learned Single Judge in RSA No.2703 of 2009. The relevant portions of order dated 29.07.2013 are extracted below:

"This petition is directed against order dated 22.07.2009 passed by the learned Single Judge of the Punjab and Haryana High Court whereby he dismissed the second appeal filed by the petitioners and upheld the judgments and decrees passed by the trial Court and the lower appellate Court nullifying the recovery of the amount allegedly paid to the respondent in excess of what was due to him.

We have heard Shri Kuldip Singh, learned counsel for the petitioners and carefully perused the record.

In our considered opinion, the order under challenge does not suffer from any legal infirmity requiring interference under Article 136 of the Constitution.

It was neither the pleaded case of the petitioners before the trial Court nor it was argued that the respondent was, in any way, responsible for any mistake committed by the concerned authority in the fixation of his pay. Therefore, the recovery sought to be effected from him was wholly arbitrary, unjustified and violative of the rules of natural justice.

With the above observation, the special leave petition is dismissed."

In view of the above order, these petitions are liable to be dismissed.

The following are the additional reasons for not entertaining the petitioners' challenge to the orders of the learned Single Judges:

i) The petitioners have not availed the remedy of intra

Court appeal and they have not shown any extra-ordinary cause which may justify entertaining of the special leave petitions under Article 136 of the Constitution directly against the orders of the learned Single Judges.

- ii) In most of the cases, the petitioners have not placed on record the orders by which pay of the respondents had been fixed in higher scales and increments had been granted to them.
- iii) The show cause notice, if any, issued to the respondents proposing recovery of the amount paid to them and the orders passed by the competent authorities for recovery of the alleged excess amount paid to the respondents have also not been produced with the special leave petitions.
- iv) The petitioners have neither averred nor any document has been placed on record to show that the State Government had initiated action against any of the officers responsible for committing mistake or negligence in fixing the pay of the respondents. This being the position, there is no justification for making recovery from the pay or pension of the respondents.

The judgment relied upon by Shri Nayyar is clearly distinguishable on facts and the ratio of the judgments in Shyam Babu Verma v. Union of India (1994) 2 SCC 521 and Sahib Ram v. State of Haryana 1995 Supp.(1) SCC 18 is clearly attracted in these cases.

The special leave petitions are accordingly dismissed.

As a sequel to the above, we direct that within three months from today, the petitioners shall repay the amount, if any, recovered from any of the respondents. If the needful is not done, then the petitioners shall have to pay interest to the concerned employees/officers at the rate of twelve per cent per annum from the date of recovery till the date of actual repayment.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master