

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 2722 of 2009
Date of decision: 31.8.2012

Shri Jai Lal S/o Shri Kesu Ram, R/o Village & P.O. Karasa, Tehsil Rohru, District Shimla, H.P. Presently posted as Mechanic-cum-Technician Grade-II, O/o HPPWD, Mechanical Division, Rohru, Tehsil Rohru, District Shimla, H.P.

... Petitioner

Versus

1. The State of Himachal Pradesh, Through Secretary (PWD), Govt. of H.P. Shimla.
2. The Superintending Engineer, HPPWD, Circle Rohru, Tehsil Rohru, District Shimla, H.P.
3. The Executive Engineer, Mechanical Division, HPPWD, Rohru, Tehsil Rohru, District Shimla, H.P.

... Respondents

Civil Writ Petition under Articles 226 and 227 of the Constitution of India.

Coram :

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?¹ No.

For the petitioner: None.
For the respondents: Mr. J.S. Guleria, Assistant Advocate General.

V.K. Ahuja , J. (Oral) :

The petitioner has challenged the recovery of excess pay released in his favour by the respondents on the ground that on fixation of pay it was found that the petitioner has overdrawn the pay, which was wrongly fixed by the respondents. The petitioner has sought to quash Annexure P-1, by which the respondents are

¹Whether reporters of Local Papers may be allowed to see the judgment? Yes.

recovering an amount of Rs.89,367/-. In case the pay has been wrongly and erroneously fixed and drawn by the employee on his pay fixation consequent to pay revision, the employer/department is at liberty to recover the excess amount, since normally an undertaking is given by the employee that in case it is found that he has drawn excess amount, he shall be liable to refund the same.

2. However, the rules of natural justice have been violated as no notice has been given to the petitioner prior to the recovery of the amount. Accordingly, the petition is allowed to this extent that before the recovery of the amount of Rs.89,367/-, the respondents will issue him a notice qua the recovery and thereafter, after hearing him, appropriate order shall be passed by the respondents qua the recovery.

3. In view of the above, the petition stands disposed of, so also the pending miscellaneous application(s), if any.

August 31, 2012
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(V.K. Ahuja),
Judge