

**IN THE HIGH COURT OF JHARKHAND AT RANCHI.**  
**W.P. (S) No. 1024 of 2016**

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Suresh Choudhary, son of Late Ram Charitra Choudhary, resident of Dubey Morhatia, P.O. & P.S.-Garhwa, District-Garhwa... Petitioner

-V e r s u s-

1. The State of Jharkhand through the Secretary, Department of Forest & Environment, Government of Jharkhand, Nepal House, Doranda, P.O. & P.S.-Doranda, District-Ranchi.
2. The Principal Chief Conservator of Forest, Van Bhawan, Doranda, P.O. & P.S. - Doranda, District-Ranchi.
3. The Regional Chief Conservator of Forest, Medininagar, P.O. & P.S. - Medininagar, District-Palamau.
4. The Conservator of Forest, Medininagar, P.O. & P.S. - Medininagar, District-Palamau.
5. The Divisional Forest Officer, Medininagar, P.O. & P.S. - Medininagar, District-Palamau.
6. The Accountant General, Jharkhand, P.O. & P.S. - Doranda, District-Ranchi. ... Respondents

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**CORAM: - HON'BLE MR. JUSTICE PRAMATH PATNAIK.**

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For the Petitioner : - M/s. Rahul Kumar,  
Sumit Prakash and Prabhat Singh, Advocate.  
For the Respondent-State: - Mr. Shahid Khan, S.C. (Mines).  
For the Respondent No. 6: - Mr. Sudarshan Shrivastava, Advocate.

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02/29.02.2016 In the instant writ application, the petitioner has inter alia prayed for issuance of a writ/order/direction in the nature of certiorari for quashing the letter No. 3413, dated 20.11.2015, issued under the signature of the respondent no. 5 (Annexure-4) pertaining to recovery of amount of Rs.7,52,170/- from Leave Encashment, Gratuity and Pension of the petitioner on account of wrong fixation of pay-scale of the petitioner. The petitioner has further prayed for direction upon the respondents to pay the Leave Encashment amount of the petitioner and to allow the benefit of 3<sup>rd</sup> M.A.C.P. with effect from the due date on completion of requisite length of 30 years' of service.

2. The sans details, facts as disclosed in the writ application, is that the petitioner was appointed as Forest Guard under the Respondent-Department of Forest on 07.10.1974 and after rendering 39 years' of service, retired on 31.01.2014. It is submitted in the writ application that after completion of 24 years of service, the petitioner has been allowed the benefit of the 2<sup>nd</sup> A.C.P. with effect from 09.08.1999 and accordingly, the pay of the petitioner has been revised. It is submitted that the petitioner has also been paid the

Provident Fund, Group Insurance and even revised Pension Payment Order has been issued on 16.06.2015. In the meantime, Leave Encashment of the petitioner has also been sanctioned vide office order dated 17.10.2015 for a period of 300 days, as is evident from Annexure-3 to the writ petition. The respondents vide letter dated 20.11.2015, while treating the petitioner to be a Non-matriculate, has revised the Pay Scale of the petitioner and directed for recovery of Rs.7,52,170/- from the leave encashment and gratuity amount and pension of the petitioner, which is impugned in the writ application.

3. Learned counsel for the petitioner submits that the order of recovery from the retirement dues of the petitioner is against the procedure established under law and the impugned order has been passed in violation of the principles of natural justice. In support of his contentions, learned counsel for the petitioner has referred to the decision of the Hon'ble Apex Court reported in **(2012) 8 SCC 417, Chandi Prasad Uniyal-versus-State of Uttarakhand** and also to the decision rendered in **JT 2015 (1) SC 95, State of Punjab & others-versus-Rafiq Masih**. Learned counsel for the petitioner has submitted that the petitioner has also made a representation dated 21.12.2015, enumerating the factual aspect for review of the matter of recovery, but no decision has been taken by the respondents-authorities.

4. Being aggrieved by the order dated 20.11.2015, issued under the signature of the respondent no. 5 (Annexure-4) and being dissatisfied with the inaction of the respondents on the representation dated 21.12.2015 vide Annexure-5, the petitioner has been constrained to approach this Court under Article 226 of the Constitution of India.

5. Heard Mr. Rahul Kumar, learned counsel for the petitioner, Mr. Shahid Khan, learned S.C. (Mines) appearing for the respondent-State and Mr. Sudarshan Shrivastava, learned counsel appearing for the Respondent No. 6.

6. Learned counsel for the petitioner submits that if a direction be issued upon the respondents and in particular to the Respondent No. 2 to consider the representation of the petitioner afresh, the grievance of the petitioner shall be redressed.

7. Mr. Shahid Khan, learned S.C. (Mines) appearing for the respondent-State and Mr. Sudarshan Shrivastava, learned counsel appearing for the Respondent No. 6 have no serious objection to the prayer made by the

learned counsel for the petitioner.

8. Without delving into the merits of the case of the petitioner, the instant writ application is disposed of with liberty to the petitioner to file a fresh representation alongwith all relevant annexures within a period of two weeks from today and on receipt of the said representation, the respondents and in particular the respondent no. 2 shall consider the matter in accordance with law and pass a reasoned and speaking order within a period of eight weeks thereafter and shall communicate the decision taken thereon to the petitioner within the aforesaid period and the order dated-20.11.2015 (Annexure-4) shall not be given effect to, till a decision is taken by the respondents.

9. Needless to say that if the claim of the petitioner is found to be genuine and the petitioner is entitled to the legally admissible dues, the same shall be disbursed to the petitioner within a period of eight weeks thereafter.

10. With the aforesaid direction, this writ application stands disposed of.

**(Pramath Patnaik, J.)**

APK