


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
राजस्थान उच्च न्यायालय

D.B. Special Appeal Writ No. 597/2024

1. State Of Rajasthan, Through Its Principal Secretary, Dept. Of Agriculture, Govt. Of Rajasthan, Pant Krishi Bhawan, Jaipur.
2. The Joint Director Agriculture (Agronomy)(Wuc), Depat. Of Agriculture, Govt. Of Rajasthan, Pant Krishi Bhawan, Jaipur.
3. The Commissioner, Deptt Of Agriculture, Govt. Of Rajasthan, Pant Krishi Bhawan, Jaipur.
4. Project Director (Atma) Cum Deputy Director, Agriculture Extension, District Tonk.
5. Project Director (Atma) Cum Deputy Director, Agriculture Extension, District Sawai Madhopur.
6. Project Director (Atma) Cum Deputy Director, Agriculture Extension,district Bhilwara.
7. Project Director (Atma) Cum Deputy Director, Agriculture Extension, District Jhalawar.
8. Project Director (Atma) Cum Deputy Director, Agriculture Extension, District Ajmer.

----Appellants

Versus

1. Shambhu Dayal Jat Son Of Shri Sunshi Lal Jat, Aged About 37 Years, resident of Vpo Bobadi, Via Garvadi, District Jaipur.
2. Suresh Kumar Meena Son Of Sukhal Meena, resident of Village Raroti, Post Sambalpur, Tehsil And District Baran.
3. Rakesh Kumar Bairwa Son Of Shri Deva Bairwa, resident of Village Aamli Purohit, Post Kalmandha, Tehsil Malpura, District District Tonk.
4. Raghunath Raiger Son Of Shri Chittar Mal Raigar, resident of Vpo Khilchipur, Ward No.1, Raigan Mohalla, Tehsil And District Sawai Madhopur.
5. Ramswaroop Raiger Son Of Shri Gangaram Raiger, resident of Near Chothmata Mandir, Raigar Mohalla

Jahajpur, Bhilwara.

6. Amar Singh Meena Son Of Shri Phoomba Ram Meena, resident of Vpo Rawatkhera, Tehsil Jahajpur, District Bhilwara.
7. Murlidhar Sharma Son Of Shri Radheyshyam Sharma, resident of Bank Gali, Jaliya II, District Ajmer.
8. Dr. Ram Singh Chouhan Son Of Shri Gopal Singh, resident of Near Jawala Pole, Jobner, District Jaipur.
9. Union Of India, Through Secretary, Ministry Of Agriculture, Government of India, New Delhi.

----Respondents

Connected With

D.B. Special Appeal Writ No. 600/2024

1. State Of Rajasthan, Through Its Principal Secretary, Dept. Of Agriculture, Govt. of Rajasthan, Jaipur.
2. The Joint Director Agriculture(W.u.c.) Dept. Of Agriculture, Govt Of Rajasthan, Pant Krishi Bhawan, Jaipur
3. The Commissioner, Deptt Of Agriculture, Govt. Of Rajasthan, Pant Krishi Bhawan, Jaipur.
4. Project Director (Atma) Cum Deputy Director, Agriculture Extension, District Sikar.
5. Deputy Director, Agriculture Extension, District Sikar.

----Appellants

Versus

1. Dinesh Kumar Son Of Shri Ram Niwas, resident of Village Chuck Kishanpura, Post Bhojpur, Tehsil Srimadhopur, District Sikar.
2. Mukesh Kumar Son Of Shri Bhagwan Singh, resident of Manjipura, Post Netawas, Tehsil Dhod, District Sikar.
3. Union Of India, Through Secretary, Ministry Of Agriculture, Govt. of India, New Delhi.

----Respondents

For Appellant(s) : Mr. B.S. Chhaba, AAG with
Mr. Avinash Choudhary, Adv. &
Mr. Hardik Singh, Adv.
Mr. Ramdhan, AGC

For Respondent(s) : Mr. Sanjay Mehla, Sr. Adv. with
Ms. Sunita Mehla, Adv. for UOI

**HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR
HON'BLE MR. JUSTICE ANAND SHARMA**

Order

30/04/2025

Challenging the order dated 4th December 2023 passed in S.B. Civil Writ Petition No.643/2016 and 14984/2015, the State of Rajasthan has filed this Special Appeal to question the decision of the writ Court to interfere with the order of recovery of excess amount dated 22nd September 2015.

2. Shorn of unnecessary details, it would suffice to record that pursuant to advertisement dated 15th Feburary 2008 the writ petitioners were engaged on contractual basis to perform the duty of Technical Assistant and the Consultant at District Level and, an agreement was executed on 23rd September 2010. The writ petitioners were engaged on a fixed remuneration ranging between Rs.8000/- to Rs.12000/- per month. This is the common ground that there was a revision in the amount of fixed remuneration to the post of Technical Assistant and the Consultant at District Level and the writ petitioners were paid the enhanced amount of fixed remuneration. Later on, an order was issued on 22nd September 2015 purportedly on the ground that excess payment was made to the writ petitioners.

3. Mr. B.S. Chhaba, learned Additional Advocate General assisted by Mr. Avinash Choudhary, advocate referred to various clauses in the agreement dated 23rd September 2010 to contend that the employees were bound by the terms of the agreement and they could not have any grievance against recovery of excess payment made to them.

4. The Writ Court after considering the rival stand, held as under:-

"On perusal of the entire material, I am of the considered view that the petitioners cannot be said to be at fault with regard to payment of excess salary/fixed honorarium to them. It was the duty of the respondents to pay their employee either working on regular basis or contract basis the salary/fixed honorarium as per their entitlement. Since, the petitioners, as observed above, were not at fault in taking the excess amount of fixed honorarium, therefore, in my considered view, the order dated 22.09.2015 deserves to be set-aside."

5. We have also glanced through the stand taken by the State of Rajasthan before the Writ Court and find that there was an admission on the part of the employer that there was no misrepresentation on the part of the writ petitioners and the mistake was prompted on account of mis-interpretation of the Government decision.

6. Having admitted so, the appellant-State of Rajasthan cannot maintain the present Special Appeals to challenge the writ Court's decision dated 4th December 2023 wherein a categoric finding has been recorded that the writ petitioners cannot be said to be at fault with regard to payment of excess salary/fixed remuneration to them.

7. In a recent decision in **Jogeswar Sahoo & Ors. Vs. The District Judge, Cuttack & Ors: 2025 SCC OnLine SC 724,**

after analysing the previous decisions rendered in **Sahib Ram Vs.**

State of Haryana: 1995 SCC SUPL. (1), B.J. Akkara (Retd.)

Vs. Government of India: 2006 (11) SCC 709, State of Punjab Vs. Rafiq Masih (White Washer): 2015(4) SCC 334 ,

the Hon'ble Supreme Court held as under:-

"11. In the case at hand, the appellants were working on the post of Stenographers when the subject illegal payment was made to them. It is not reflected in the record that such payment was made to the appellants on account of any fraud or misrepresentation by them. It seems, when the financial benefit was extended to the appellants by the District Judge, Cuttack, the same was subsequently not approved by the High Court which resulted in the subsequent order of recovery. It is also not in dispute that the payment was made in the year 2017 whereas the recovery was directed in the year 2023. However, in the meanwhile, the appellants have retired in the year 2020. It is also an admitted position that the appellants were not afforded any opportunity of hearing before issuing the order of recovery. The appellants having superannuated on a ministerial post of Stenographer were admittedly not holding any gazetted post as such applying the principle enunciated by this Court in the above quoted judgment, the recovery is found unsustainable."

8. Following the discussions as above, D.B. Special Appeal Writ No. 597/2024 and D.B. Special Appeal Writ No. 600/2024 are dismissed.

(ANAND SHARMA),J

(SHREE CHANDRASHEKHAR),J