

GAHC010023432023



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WP(C)/1093/2023

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF SCIENCE AND TECHNOLOGY,
TECHNOLOGY BHAWAN, NEW MEHRAULI ROAD,
NEW DELHI, PIN- 110016.

2: THE SURVEYOR GENERAL OF INDIA
RAJPUR ROAD
HATHIBARKALA ESTATE

DEHRADUN
UTTARAKHAND

PIN- 248001.

3: THE DIRECTOR
SURVEY OF INDIA
ASSAM AND NAGALAND GEO SPATIAL DATA CENTRE

NIDHI BHAWAN
2ND FLOOR
LALMATI

NH-37
GUWAHATI- 781029.

4: THE SENIOR ACCOUNTS OFFICER
REGIONAL PAY AND ACCOUNTS OFFICE
SURVEY OF INDIA
WOOD STREET
KOLKATA- 700016

WEST BENGAL

VERSUS

SUDHAN RANJAN BHOWMICK
SON OF LATE SASHI MOHAN BHOWMICK,
RETIRED OFFICER, SURVEY OF INDIA,
ASSAM AND NAGALAND GEO SPATIAL DATA CENTRE,
NIDHI BHAWAN, 2ND FLOOR,
LALMATI, NH-37, GUWAHATI- 781029.

Advocate for the Petitioner : MR H GUPTA

Advocate for the Respondent : MR. A AHMED

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 26.06.2024

(Vijay Bishnoi, CJ)

This writ petition is filed on behalf of the Union of India being aggrieved with the order dated 6th May, 2022 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in OA No.182/2020, whereby, the recovery order issued by the appellant against the respondent to the tune of Rs.1,63,610/- (Rupees One Lakh Sixty Three Thousand Six Hundred & Ten) only has been set aside.

2. The petitioners are claiming that the said amount has been paid to the respondent in excess, as his pay as Group 'D' Officer, was fixed in a wrong scale.
3. The excess amount was paid to the respondent during the period running from 01.01.2003 to 23.01.2019.
4. The petitioners are claiming that the respondent has submitted an

undertaking on 20th May, 2013 stating that he will refund the excess amount, if any, paid to him on account of wrong fixation of his pay.

5. The petitioners have issued a recovery order on 01.01.2019 and the respondent has challenged the same before the Central Administrative Tribunal, (CAT), Guwahati. However, the CAT, Guwahati has directed the respondent to consider the representation and decide the same in accordance with law.
6. Pursuant to that, the representation filed by the respondent was decided by the petitioners on 1st September, 2020, which was challenged by the respondent vide OA No.182/2020 and the CAT, Guwahati has set aside the recovery order vide the impugned order.
7. The CAT, Guwahati has held that as per the principle laid down by the Hon'ble Supreme Court in ***State of Punjab and Ors, -vs- Rafiqu Masih (White Washer)*** reported in **(2015) 4 SCC 334**, the action of the petitioners of recovery the amount of Rs.1,63,610/- (Rupees One Lakh Sixty Three Thousand Six Hundred & Ten) only from the retiral benefit of the respondent is illegal.
8. It is contended by the learned counsel for the petitioners that as per the Office Memorandum issued by the petitioners and in view of the fact that the respondent has submitted an undertaking, the action of the petitioners of recovery the amount paid in excess to the respondent cannot be said to be illegal.
9. Having heard the learned counsel for the parties and after taking into consideration the fact that the respondent was retired on 28.02.2019 and the petitioners sought recovery of an amount of Rs.1,63,610/- (Rupees One Lakh Sixty Three Thousand Six Hundred & Ten) Only, which in our opinion is a paltry

amount for the mighty Union of India, we are not inclined to interfere with the impugned order passed by the CAT, Guwahati, Bench, Guwahati.

10. We made it clear that we have not examined the matter on merits.

11. With this clarification, this writ petition is disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant