

ITEM NO.32

COURT NO.16

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 31384-31385/2017

(Arising out of impugned final judgment and order dated 16-05-2014 in LPA No. 12/2013 23-11-2016 in LPA No. 262/2014 passed by the High Court Of Judicature At Patna)

MANORANJAN PRASAD SRIVASTAVA

Petitioner(s)

VERSUS

STATE OF BIHAR &amp; ORS.

Respondent(s)

IA No. 123287/2018 - EXEMPTION FROM FILING O.T.

IA No. 105935/2017 - EXEMPTION FROM FILING O.T.)

Date : 09-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE INDU MALHOTRA  
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s)

Mr. Amit Pawan, AOR

For Respondent(s)

Mr. Abhinav Mukerji, AOR  
Mrs. Bihu Sharma, Adv.  
Ms. Pratishtha Vij, Adv.  
Mr. Samarth Khanna, Adv.

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

The present Special Leave Petition is being disposed of in light of the Judgment passed by this Court in State of Punjab Vs. Rafiq Masih [(2015) 4 SCC 334],

“Para 18 It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it

may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law.

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover".

The present Special Leave Petition is disposed of in the aforesaid terms.

The recovery sought to be made by the Respondent State is set aside.

(SUSHMA KUMARI BAJAJ)  
SENIOR PERSONAL ASSISTANT

(SUNIL KUMAR RAJVANSHI)  
BRANCH OFFICER