

**ITEM NO.206 COURT NO.2 SECTION IVB  
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 (Civil)  
No(s).24607/2010  
(From the judgement and order dated 16/03/2010 in CWP No.4671/2010  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)  
STATE OF PUNJAB & ORS. Petitioner(s)  
VERSUS  
KRISHAN KUMAR BANSAL & ORS. Respondent(s)  
(With prayer for interim relief and office report)  
(For final disposal)  
WITH  
SLP(C)No.694/2011 & others  
(With office report)  
(For final disposal)  
Mr.Nidhi Ram Sharma, Adv.  
Mr. Purushottam Sharma Tripathi, Adv.  
Mr.Tushar Bakshi, Adv.  
Mr.A.Venayagam Balan, Adv.**

UPON hearing counsel the Court made the following

**O R D E R**

Delay condoned.

These petitions are directed against the orders passed by the learned Single Judges of the Punjab and Haryana High Court whereby recovery of the alleged excess amount paid to the respondents was quashed by relying upon the order passed by the Full Bench in Civil Writ Petition No.2799 of 2008 - Budh Ram and others vs. State of Haryana and others and the orders passed by other learned Single Judges.

We have heard Shri Nikhil Nayyar, learned Additional Advocate General appearing on behalf of the petitioners at length and carefully perused the record. Shri Nayyar fairly conceded that in none of these cases, the respondents were responsible for mistake committed in the fixation of their pay. He, however, relied upon the judgment of two-Judge Bench in Chandi Prasad Uniyal v. State of Uttarakhand (2012) 8 SCC 417 and argued that the amount erroneously paid to the employees can be recovered from them even though they may not be responsible for wrong fixation of their pay, etc.

In our opinion, there is no merit in the argument of the learned Additional Advocate General. By an order dated On 29.07.2013, a three Judge Bench dismissed Special Leave Petition (Civil)...../2010 (CC 14563 of 2010) which was directed against order dated 22.07.2009 passed by the learned Single Judge in RSA No.2703 of 2009. The relevant portions of order dated 29.07.2013 are extracted below:

*“This petition is directed against order dated 22.07.2009 passed by the learned Single Judge of the Punjab and Haryana High Court whereby he dismissed the second appeal filed by the*

*petitioners and upheld the judgments and decrees passed by the trial Court and the lower appellate Court nullifying the recovery of the amount allegedly paid to the respondent in excess of what was due to him. We have heard Shri Kuldip Singh, learned counsel for the petitioners and carefully perused the record. In our considered opinion, the order under challenge does not suffer from any legal infirmity requiring interference under Article 136 of the Constitution.*

*It was neither the pleaded case of the petitioners before the trial Court nor it was argued that the respondent was, in any way, responsible for any mistake committed by the concerned authority in the fixation of his pay. Therefore, the recovery sought to be effected from him as wholly arbitrary, unjustified and violative of the rules of natural justice. With the above observation, the special leave petition is dismissed.”*

In view of the above order, these petitions are liable to be dismissed. The following are the additional reasons for not entertaining the petitioners’ challenge to the orders of the learned Single Judges:

(i) The petitioners have not availed the remedy of intra Court appeal and they have not shown any extra-ordinary cause which may justify entertaining of the special leave petitions under Article 136 of the Constitution directly against the orders of the learned Single Judges.

(ii) In most of the cases, the petitioners have not placed on record the orders by which pay of the respondents had been fixed in higher scales and increments had been granted to them.

(iii) The show cause notice, if any, issued to the respondents proposing recovery of the amount paid to them and the orders passed by the competent authorities for recovery of the alleged excess amount paid to the respondents have also not been produced with the special leave petitions.

(iv) The petitioners have neither averred nor any document has been placed on record to show that the State Government had initiated action against any of the officers responsible for committing mistake or negligence in fixing the pay of the respondents. This being the position, there is no justification for making recovery from the pay or pension of the respondents. The judgment relied upon by Shri Nayyar is clearly distinguishable on facts and the ratio of the judgments in *Shyam Babu Verma v. Union of India* (1994) 2 SCC 521 and *Sahib Ram v. State of Haryana* 1995 Supp.(1) SCC 18 is clearly attracted in these cases.

The special leave petitions are accordingly dismissed.

As a sequel to the above, we direct that within three months from today, the petitioners shall repay the amount, if any, recovered from any of the respondents. If the needful is not done, then the petitioners shall have to pay interest to the concerned employees/officers at the rate of twelve per cent per annum from the date of recovery till the date of actual repayment.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master