



2026:AHC:1142

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 17017 of 2022

Shyam Manohar Gupta

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Arvind Kumar Verma, Mahesh Sharma
Counsel for Respondent(s)	:	C.S.C.

With

WRIT - A No. - 16803 of 2025

Shyam Manohar Gupta

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Mahesh Sharma, Suraj Yadav
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Mahesh Sharma, learned counsel for the writ petitioner and Sri R.S. Umrao, learned Standing Counsel for the State.

2. Sri R.S. Umrao, learned Standing Counsel has made a statement at bar that already affidavits have been exchanged in the leading writ petition and he has full instructions and he is in a position to argue the matter on merits and he does not propose to file any further affidavit, thus, the writ petitions be decided on the basis of the documents available on record. With the consent of the parties, the writ petitions are being decided at this stage.

3. The case of the writ petitioner is that the writ petitioner was engaged as a Seasonal Collection Amin on 28.02.1985 and he staked his claim for regularization as per the provisions contained under Uttar Pradesh Collection Amins Service Rules, 1974. A writ petition came to be

preferred by the writ petitioner being Writ-A No. 17935 of 1996 for regularization which was dismissed against which an intra-court appeal no. 378 of 1997 was preferred which came to be allowed remitting the matter back to the authorities to pass a fresh order and the claim of the writ petitioner was again rejected on 24.05.2004 which was subject matter of challenge in Writ-A No. 50758 of 2004, the writ petition was allowed requiring the District Magistrate to pass a fresh order and the District Magistrate rejected the claim on 31.03.2009 which was subject matter of challenge in Writ-A No. 59570 of 2009 which came to be allowed on 06.12.2012 requiring the consideration of the claim and a cost of Rs. 16,000/- was imposed upon the respondents and thereafter on 25.01.2013, the writ petitioner's services came to be regularized as Collection Amin. As per the writ petitioner one Rama Nand Yadav, a Seasonal Collection Amin appointed on 12.12.1985 and Shiv Kumar Lal on 02.05.1989 staked their claim for regularization who was junior to the writ petitioner they preferred Writ-A No. 23804 of 2000 which came to be decided in their favour according benefits against which an intra-court appeal bearing no. 390 of 2001 came to be dismissed on 24.04.2003 in pursuance whereof District Magistrate passed an order according benefits to both of them and even otherwise one Chandra Bhushan Yadav and Shiv Kumar Lal were also accorded the said benefits they also approached this Court while filing writ petition and according to the writ petitioner, he also preferred Writ-A No. 50340 of 2015 which came to be decided on 18.01.2018 and the writ petitioner was accorded consequential benefits by virtue of the order dated 23.03.2018 with effect from 17.01.1992 in compliance whereof orders were passed on 23.05.2018. As per the writ petitioners on 26.09.2018 an order came to be passed by Sub Divisional Officer, Tehsil Salempur, District Deoria according benefits with effect from 17.01.1992 in the meantime amount came to be paid on 26.07.2018 seeking to recover excess payment of Rs. 23,23,661/- since the said order was in violation of principles of natural justice and there was no fraud concealment or misrepresentation so the writ petitioner preferred the leading writ petition.

4. The present writ petition came to be connected with Writ-A No. 15883 of 2022 and Writ-A No. 15301 of 2022 and the said writ petitions came to

be allowed on 16.05.2025. Though the writ petitioner was accorded interim protection in the leading writ petition on 02.12.2022 in the meantime the writ petitioner superannuated on 31.01.2025, however, the claim for pensionary benefits have been withheld by District Magistrate, Deoria on 07.07.2025 on the ground that the leading writ petition is pending against recovery in which an interim order has been passed.

5. The connected writ petition came to be tagged with the leading writ petition on 12.11.2025. Learned counsel for the writ petitioner has sought to argue in the order to recovery the said amount which is subject matter of challenge in the leading writ petition cannot be sustained even for a single moment particularly when it is not a case of concealment misrepresentation of fraud. Further according to him there has been violation of principles of natural justice as the writ petitioner was not put to notice in that regard. He seeks to rely upon the decision of Hon'ble Apex Court in **State of Punjab Vs. Rafiq Masih (White Washer), 2015 (4) SCC 334** and **Thomas Daniel Vs. State of Kerala and others, (2022) LiveLaw (SC) 438**. He further submits that even otherwise mere pendency of the writ petition wherein interim order has been accorded restraining the respondents from making recovery of the excess amount cannot be a ground to withhold the pensionary benefits.

6. Learned Standing Counsel submits that whatever might be in case any excess amount stands paid when it is always open for the employer to deduct the same, however, according to him, it is not forthcoming from the records that the writ petitioner was put to notice. He submits that the orders would be revisited and fresh orders would be passed post affording opportunity of hearing to the writ petitioner.

7. I have heard the submission so made across the bar and perused the record.

8. Facts are not in issue. It is not in issue that after series of writ petitions on passing of a positive order, the writ petitioner's services would regularize, however, an order came to be passed whereby recovery is

being sought to be made which is subject matter of challenge apparently in para 23 and 31 of the leading writ petition, it has been recited that the order of recovery is in violation of principles of natural justice and further in the connected writ petition the entire basis for not paying the retiral benefits is relatable to pendency of the leading writ petition wherein recovery has been questioned. In the opinion of the Court, it was paramount upon the respondents to have issued notice to the writ petitioner.

9. Accordingly, the writ petitions are being decided in the following terms.-

(a) the order dated 26.09.2022 passed by the Sub Divisional Magistrate, Tehsil Salempur, District Deoria in the leading writ petition and the order dated 07.07.2025 passed by District Magistrate in the connected writ petition are set aside; (b) matters stand remitted back to the authorities to pass a fresh order strictly in accordance with law after putting to notice the writ petition; (c) the said exercise shall be conducted and concluded within a period of two months. In case the writ petitioners are entitled to benefits then the same shall be accorded to the writ petitioner within the same period.

10. With the aforesaid observations, the writ petitions are disposed of.

(Vikas Budhwar,J.)

January 6, 2026

Rajesh