



2026:AHC:7615

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 33290 of 2012

Nayak 840450241 Govind Ji Ojha And Others

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhishek Tripathi, Amrit Raj Chaurasiya, Dilip Kumar Singh, Gyan Prakash Dwivedi, Shiv Singh, Udai Chandani
Counsel for Respondent(s)	:	C.S.C., Vivek Shandilya

With

WRIT - A No. - 26150 of 2012

Narendra Bahadur Tiwari And Others

.....Petitioner(s)-

Versus

State Of U.P.Thru. Prin.Secy. And Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhishek Tripathi, Amrit Raj Chaurasiya, Dev Prakash Sharma, Dilip Kumar Singh, Gyan Prakash Dwivedi, Lalit Kumar Srivastava, Mohit Kumar Tiwari, Pradeep Kumar Pandey, Priyanka Devi, Udai Chandani
Counsel for Respondent(s)	:	C.S.C., Vivek Shandilya

With

WRIT - A No. - 28034 of 2012

Con. 840670715 Hari Singh Yadav

.....Petitioner(s)

Versus

State of U.P. and Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Amrit Raj Chaurasiya, Udai Chandani
Counsel for Respondent(s)	:	C.S.C., Vivek Shandilya

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard learned counsel for the writ petitioner as well as Sri Rahul Malviya and Sri R.S. Umrao, learned Standing Counsel for the State.
2. Since counter rejoinder affidavits have been exchanged between the parties, the writ petitions are being decided at the admission stage.
3. By order dated 24.02.2025 passed in the leading writ petition, a withdrawal application No. 13 of 2025 came to be preferred which was decided on 24.02.2025 whereby the writ petition was dismissed with respect to writ petitioner no. 2, Maharath Prasad. In the leading writ petition, there happens to be a withdrawal application no. 16 of 2025 for withdrawing the writ petition for the writ petitioner no. 1 i.e. Govind Ji Ojha and others and the writ petition be dismissed insofar as it pertains to writ petitioner no. 2.
4. As regards the connected writ petition, a withdrawal application no. 16 of 2025 came to be preferred and an order came to be passed on 24.02.2025 for dismissing the writ petition so far as it pertains to writ petitioners no.2, 30 and 31 in the connected writ petition. A withdrawal application has been preferred bearing no. 19 of 2025 for dismissing the writ petition for writ petitioner no. 21 in the connected C1 writ petition i.e. Ram Tiwari and the writ petition is being dismissed on behalf of writ petitioner no. 21 in the connected C1 writ petition.
5. The case of the writ petitioners in the leading and connected writ petitions are that the writ petitioner in the leading writ petition no. 1 to 4 were posted as Naik and 5 to 7 were posted as Constable as whereas the writ petitioners in connected C1 writ petition were appointed as Lanc Naik with regard to connected C2 writ petition, the writ petitioners are working on the post of Constable. The writ petitioners are aggrieved against the order dated 10.05.2012 in leading and the connected C1 writ petitions and 06.05.2012 in the connected C2 writ petition whereby the recovery is being sought to be made on the premise that excess payment has been extended to them. Learned counsel for the writ petitioner submits that the said recovery could not have been made particularly when it is not a case of fraud, concealment or misrepresentation and further further the entire action is unilaterally behind the back of the writ petitioner without issuing any show cause notice. Submission is that, in case, any rectification was to be made then it is incumbent upon the respondents to have issued show cause notice. Reliance

has been placed upon the decision in the case of **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**.

6. Learned Standing Counsel, on the other hand, submits that it is always open for the employer to make reductions and to issue recoveries once there is an error committed. Submission is that though in the present case, notices have been not issued but the writ petitioners are entitled to return back the amount which has been illegally extended to them.

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

8. The facts are not in issue. It is not in issue that the writ petitioner were extended certain benefits. Allegations of the respondents is that the said extension of benefit was not as per law and the respondents have authority to recover the same. On a pointed query being raised to learned Standing Counsel whether the writ petitioners were put to notice the answer is in negative. Thus, the impugned order cannot be sustained.

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

(a) the order dated 10.05.2012 passed by respondent no. 5, Commandant, 4th Battalion, PAC, Dhoomanganj and the order dated 06.05.2012 passed by Commandant, 4th Battalion, PAC, Dhoomanganj, Allahabad in the connected C2 writ petition are set aside; (b) matter stands remitted back to the authorities to pass a fresh order post issuance of a show cause notice.

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

January 12, 2026
Rajesh

(Vikas Budhwar,J.)