

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Petition (S) No. 5372 of 2011

Motilal Kaivarth S/o Late Sahas Ram, aged about 61 years, Retired Deputy Ranger, Forest Department/Korba, R/o village Navapara, PO Katangi via Kasdol, Tehsil Baloda Bazar, District Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State of Chhattisgarh, Through The Secretary, Forest Department, Mantralaya DKS Bhawan, Raipur, Chhattisgarh.
2. The Divisional Forest Officer, Korba Division, Korba, Chhattisgarh.

---- **Respondents**

For Petitioner : Shri Sunil Verma, Advocate on behalf of Shri B.P.Rao, Advocate.

For Respondents/State : Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice

Order on Board

14/12/2015

1. Heard Learned Counsel for the Petitioner and the State.
2. The Petitioner superannuated from service as Deputy Ranger on 31.8.2010. He is aggrieved by order dated 24.9.2010 ordering recovery of Rs. 57,526/- from his retiral benefits on the ground that he was not eligible for grant of increments.
3. Learned Counsel for the Petitioner submits that the order is after superannuation, in violation of principles of natural justice and there are no allegations of the Petitioner having practiced any fraud to obtain the benefit which was granted way back in 1999.
4. Learned Counsel for the State submits that if the Petitioner was not eligible for grant of increments, the question of fraud is not very relevant. The State has the right to recover any wrong payment made.
5. Having considered the submissions, for a person who has superannuated, any deduction of whatsoever amount from pensionary benefits naturally will have adverse consequences when he has no other sources of income left. No order to

the prejudice of even a retired person can be passed making deduction from his pension without giving of a show cause notice and consideration of the reply.

6. Considering that the Petitioner was granted increments as far back as 1999, he has superannuated on 31.8.2010, there are no allegations of fraud and that the impugned order was passed in violation of the principles of natural justice, applying the law laid down in (2012) 8 SCC 417 (Chandi Prasad Uniyal v. State of Uttarakhand) the impugned order dated 24.9.2010 is set aside.

7. The writ petition is allowed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE