

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.1114 of 2013

Khemuram Vishwakarma, S/o Late Shri Ramlal Vishwakarma, aged about 63 years, R/o Village Amodi, Post Office Amodi, P.S. Arang, Tehsil Arang, District Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Revenue Department, Mantralaya, New Raipur, P.S. & Tehsil Raipur (C.G.)
2. The Commissioner, Revenue Department, Division Raipur, P.S. & Tehsil District Raipur (C.G.)
3. The Collector, Mahasamund, P.S. & Tehsil District Mahasamund (C.G.)
4. Joint Director, Treasury, Account and Pension Department, Raipur Division, P.S. & Tehsil Raipur (C.G.)

---- Respondents

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For Petitioner: Mr. Anup Majumdar, Advocate.

For Respondents/State: Mr. D.R. Minj, Dy. Govt. Advocate.

Mr. Girish Kolhe, Divisional Joint Director, Treasury, Accounts and Pension, Raipur is present in person.

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Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/12/2015

1. The petitioner, Revenue Inspector, was awarded four penalties for his misconduct by order dated 18-2-2010 passed by the Collector, Mahasamund including reduction

of pay-scale to its lowest stage for nine months. Pay was reduced as per penalty imposed and which continued for a period of nine months. The petitioner preferred appeal before the Commissioner, Raipur Division, Raipur and the Commissioner by its order dated 4-11-2010 partly allowed the appeal and set aside all the penalties except the penalty of reduction of pay-scale of the petitioner for nine months. Thereafter, the Joint Director respondent No.4 by its order dated 31-3-2012 held that in the order of the Commissioner, there is no mention that reduction of pay to its lowest stage is to be confined for nine months and, therefore, reduction continued till retirement of the petitioner on 31-1-2011 and all the emoluments were fixed accordingly on the lowest pay and an amount of Rs.1,46,203/- was directed to be recovered from the petitioner.

2. This writ petition has been filed stating inter alia that respondent No.4 has read incorrectly the order of the Commissioner affirming the order of the Collector with regard to reduction of pay which was confined to nine months by holding that it has to be confined for the entire service career of the petitioner and, therefore, the recovery order dated 23-4-2012 has to be quashed.

3. I have heard learned counsel for the parties and perused the record.
4. The fact remains that the Collector, Mahasamund by its order dated 18-2-2010 awarded reduction of pay-scale of the petitioner to its lowest stage for nine months and in appeal, the Commissioner, Raipur Division, Raipur has maintained it affirming the order of the Collector. It was not necessary for the Commissioner while affirming the order of the Collector to say specifically that penalty of reduction of pay-scale to its lowest stage will continue only for nine months as it was the order of the Collector and after confirmation it has to be continued for nine months only. Respondent No.4 has incorrectly read it that it has to be continued for the entire service career of the petitioner.
5. The effect of the order of the lower courts / Tribunals on affirmation by higher courts would be that the order of the lower courts / Tribunals has to be given effect as it is. Therefore, it is held that the order of the Collector for reduction of pay-scale to its lowest stage is only operative for nine months which is also held by the Deputy Collector on 1-2-2012.
6. Accordingly, recovery order dated 23-4-2012 passed by the Collector, Mahasamund is hereby quashed. The

Collector, Mahasamund and respondent No.4 are directed to re-fix the pay of the petitioner within 30 days from today, as the Collector has imposed penalty of reduction of pay-scale to its lowest stage only for nine months which was affirmed by the Commissioner. Consequently, they shall fix pension and payment of other retiral benefits to the petitioner within 45 days from today.

7. Accordingly, the writ petition is disposed of with aforesaid directions. No order as to costs.

Sd/-  
(Sanjay K. Agrawal)  
Judge