

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 155 OF 2016

Kamta Prasad Saket son of Shri Rajman Prasad Saket,
aged about 64 years, resident of Village & Post-Kasra,
Baikunthpur, District-Korea (C.G.)

---Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary,
Veterinary Department, Mahanadi Bhawan, New
Raipur, P.S. Rakhi, District –Raipur (C.G.)
2. The Joint Director, Treasury, Accounts & Pension,
Ambikapur, Surguja Division, Ambikapur, District
Surguja (C.G.)
3. The Deputy Director, Veterinary Services, Baikunthpur,
District Korea (C.G.)

----Respondents

For Petitioner	: Mr. D.N. Prajapati, Advocate
For State/respondents	: Mr. Y.S. Thakur, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

18/01/2016

1. Heard.
2. Learned counsel appearing for the petitioner submits that the petitioner has retired from his service on the post of Attendant Class-IV on 31.10.2013 and, thereafter, order dated 24.12.2013 (Annexure P-2) has

been issued by respondent No.3-Deputy Director, Veterinary Services, Baikunthpur, Korea directing recovery of Rs.1,63,892/-, which is to be deducted from gratuity and pension of the petitioner, but order for recovery has been passed without issuing any show-cause notice and without affording any opportunity of hearing despite the decisions rendered by the Supreme Court in the matter of **State of Punjab and others v. Rafiq Masih (White Washer) and others**¹ and by this Court in the matters of **Vidya Shankar Tiwari v. State of M.P. (Now State of Chhattisgarh) and others**² and **Ramchandra Kurup v. State of C.G. & others**³. In the aforesaid cases, it has been repeatedly held by the Supreme Court and this Court that no recovery can be made without affording any opportunity of hearing. However, it appears that the authority, unmindful of settled legal position, has issued the impugned order dated 24.12.2013.

3. Learned counsel appearing for the State/respondents submits that the petitioner has been

1 (2015) 4 SCC 334

2 2006 (2) MPHT 31 (CG)

3 2010 (3) CGLJ 400

granted benefits on account of wrongly fixation of pay, therefore, excess amount is sought to be recovered from his gratuity and pension.

4. In these circumstances and in view of the law laid-down by the Supreme Court and this Court in the aforesaid cases, it is directed that the petitioner will be given proper show-cause notice and afforded proper opportunity of hearing against any recovery for whatever reason, including the reasons relating to excess payment on account of wrong fixation of pay before further deducting the amount from his salary. The aforesaid exercise shall be completed within a period of three months from the date of receipt and/or production of certified copy of this order.

5. With the aforesaid observation, writ petition stands finally disposed of.

Sd/-
(Sanjay K. Agrawal)
JUDGE