

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 330 of 2016**

Naval Kishore Mishra S/o Shri Ambika Prasad Mishra, aged about 70 years, resident of village Harratola, Post Lalpur, Tahsil Pendra Road, PS Pendra, District Bilaspur, Chhattisgarh.

**---- Appellant****Versus**

1. State of Chhattisgarh, Through: Secretary, Irrigation Department, Mahanadi Bhawan, New Mantralaya, Raipur, Chhattisgarh.
2. The Engineer in Chief, Water Resources Department, Mahanadi Bhawan, New Mantralaya, Raipur, Chhattisgarh.
3. The Chief Engineer, Hasdeo Kacchar, Water Resources Department, Bilaspur, Chhattisgarh.
4. The Superintendent Engineer, Maniyari Hasdeo Division, Bilaspur, Chhattisgarh.
5. The Executive Engineer, Water Resources Division, Pendra Road, District Bilaspur, Chhattisgarh.
6. Deputy Director, Account, Treasury and Pension, Bilaspur, Chhattisgarh.

**---- Respondents**


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| For Appellant         | : Shri Prakash Tiwari, Advocate.                       |
| For Respondents/State | : Shri Yashwant Singh Thakur, Deputy Advocate General. |

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**Hon'ble Shri Deepak Gupta, Chief Justice**  
**Hon'ble Shri Sanjay K. Agrawal, J.**

**Order on Board****Per Deepak Gupta, Chief Justice****18/07/2016**

1. This appeal is directed against order dated 20.06.2016 passed by the learned Single Judge on an interim application in the writ petition. The office has raised an objection that this order is an interlocutory order, hence no appeal lies in terms of the proviso to Rule 2(1) of the High Court of Chhattisgarh (Appeal to Division Bench) Rules, 2006.

2. Briefly stated facts of the case are that total amount of Rs. 6,67,128/- as pensionary benefits was paid to the Petitioner between the period 15.02.2016 and 20.02.2016. The State realised that it had made a mistake while calculating his retiral benefits and made over payment of Rs. 1,88,662/-. The Appellant was directed to refund this amount of Rs. 1,88,662 vide impugned order dated 31.03.2016. The Appellant challenged the said order by filing a

writ petition viz. Writ Petition (S) No. 1207 of 2016. The Appellant also filed an IA for interim stay of the said order. The instant appeal has been filed challenging the interim order dated 20.06.2016 passed by the learned Single Judge rejecting the prayer for grant of stay.

3. The learned Single Judge has disposed of the interim application observing as under:

"Taking into consideration the submission of learned counsel for the parties, it is directed that the petitioner shall deposit Rs. 1,88,662/- with the respondent within a period of 3 months. As soon as this amount is deposited, the pension of the petitioner shall be paid to him including the arrears thereof. "

4. This order, on the face of it is an interlocutory order. It does not decide the rights of the parties. This is not a case where the payment was made many years back. Within 1½ months of the payment being made, the State issued an order of recovery on the ground that wrong calculation was made and excess payment had been made to the Petitioner. This matter is not covered by those matters in which the Court refuses to grant relief to the State because payment had been made long years back.

5. We are not going into the correctness of the order insofar as it decides the liability of the employee to repay the amount is concerned. The learned Single Judge has in fact given three months time to the employee to pay this amount. The amount of Rs.6,67,128/- has been paid to the Petitioner and he has been directed to refund an amount of Rs.1,88,662/- only within 1½ months. This will not cause extreme hardship to the Petitioner. This is totally an interlocutory order and no appeal lies against the same.

5. Even on merits, we find no merit in the writ appeal. It is dismissed accordingly.

Sd/-  
(Deepak Gupta)  
**CHIEF JUSTICE**

Sd/-  
(Sanjay K. Agrawal)  
**JUDGE**