

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No. 4738 Of 2015**

1. Santosh Prasad Shukla, son of Anjani Prasad, aged about 44 years, working as Peon, Office of Block Education Officer, Jashpur Nagar, District-Jashpur (C.G.)
2. Shrikant Mishra, son of late Shri Vishveshwar Prasad Mishra, aged about 39 years, working as Peon, Govt. Middle School, Balachhapar, District – Jashpur (C.G.)

---- Petitioners**Versus**

1. State of Chhattisgarh Through the Secretary, Scheduled Caste & Scheduled Tribe Development Department, Mahanadi Bhawan, New Raipur, P.S.-Rakhi, District Raipur (C.G.)
2. The Commissioner, Department of Scheduled Caste & Scheduled Tribe Development Chhattisgarh, Raipur (C.G.)
3. The Collector (Scheduled Tribe Welfare Banch), District Jashpur (C.G.)
4. The Block Education Officer, Jashpur Nagar, District – Jashpur (C.G.)

---- Respondents

For Petitioners : Mr. Harish Khuntia, Advocate
 For Respondents/State : Mr. Dhiraj Kumar Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board**15/01/2016**

1. Heard.

2. Learned counsel appearing for the petitioners submits that the petitioner No. 1 is working on the post of Peon (Class-IV) in the office of Block Education Officer, Jashpur Nagar, District – Jashpur (C.G.) whereas petitioner No. 2 is working on the post of Peon in Govt. Middle School, Balachhapar, District Jashpur (C.G.) and were regularized by the department on 04.10.2008 and, thereafter, order dated 25.08.2015 (Annexure P-1) has been issued by respondent No.4-Block Education Officer, Jashpur Nagar, District Jashpur directing recovery of ₹ 1,46,598/- from petitioner No. 1 & ₹ 1,46,598/- , which are to be deducted from petitioners' salary, 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 by this Court that no recovery can be made without affording any opportunity of hearing. However,

1 (2015) 4 SCC 334

2 2006 (2) MPHT 31 (CG)

3 2010 (3) CGLJ 400

it appears that the authority, unmindful of settled legal position, has issued the impugned order dated 25.08.2015.

3. Learned counsel appearing for the State/respondents submits that the petitioners have been granted benefits on account of wrongly fixation of pay, therefore, excess amount are sought to be recovered from their salary.
4. In these circumstances and in view of the law laid-down by the Supreme Court and by this Court in the aforesaid case, it is directed that the petitioners 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 their salary. The aforesaid exercise shall be completed within three months from the date of receipt of certified copy of this order.
5. With the aforesaid observation, writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
JUDGE

D/-

