

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No.1212 Of 2014**

Ram Pyare Thakur, S/o Late Shri S.L.Thakur, aged about 62 years, 3 months, Retired, Head Master, R/o-Village-Sindhori, Post-Barounda, Block Fingeshwar, Thana-Rajim, Distt.Gariyaband (CG)

---- Petitioner

Versus

1. State of Chhattisgarh Through: the Secretary, School Education Department, Mahanadi Bhawan, New Raipur (CG)
2. District Education Officer, Gariyaband, District-Gariyaband (CG)
3. Block Education Officer, Block-Fingeshwar, District-Gariyaband (CG)

---- Respondents

For Petitioner : Mr.Somkant Verma, Advocate
For Respondents/State : Mr.Dhiraj K. Wankhede, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

22/01/2016

1. Learned counsel for the petitioner would submit that the petitioner has been retired from service on the post of Headmaster, Government Primary School, Pithoura in the month of November, 2013 and thereafter order dated 18.9.2013 (Annexure P/1) has been issued by respondent No.3 directing recovery of arrears of regular pay scale,

which is to be deducted from pension and gratuity, 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, it appears that the authority, unmindful of settled legal position, has issued the impugned order dated 18.9.2013.

2. Learned counsel for the respondents/State would submit that the petitioner has been granted benefits on account of wrongly fixation of pay, therefore, excess amount is sought to be recovered from his gratuity and pension.
3. In these circumstances and in view of the law laid-down by the Supreme Court and by this Court in the aforesaid cases, it is directed that the petitioner will be given proper

1 (2015) 4 SCC 334

2 2006 (2) MPHT 31 (CG)

3 2010 (3) CGLJ 400

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 of certified copy of this order.

4. With the aforesaid observation, all writ petition stands finally disposed of. No order as to cost(s).

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

B/-