

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No.4956 Of 2014**

Ibrahim Khan S/o Late Ismile Khan, aged about 62 years,
(Retd. Dresser, Grade-II), R/o Radhika Nagar, Dongargarh,
Ward No.21, Tahsil and District-Rajnandgaon (CG)

---- **Petitioner**

Versus

1. State of Chhattisgarh, Through-The Secretary, Health Department, Mahanadi Bhavan, Mantralaya, New Raipur, District-Raipur (CG)
2. Directorate, Health Services, Raipur (CG)
3. Chief Medical & Health Officer, District-Rajnandgaon (CG)
4. Block Medical Officer, Community Health Centre, Mohla, District-Rajnandgaon (CG)

---- **Respondents**

For Petitioner	:	Mr.B.P.Singh, Advocate
For Respondents/State	:	Mr.D.R.Minz, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

25/01/2016

1. Learned counsel for the petitioner would submit that due date of retirement of the petitioner was 31.1.2013, but respondent No.4/Block Medical Officer, Community Health Centre, Mohla has issued recovery notice dated 30.4.2014 (Annexure P/1) holding that he has worked more than the required period till 31.12.2013 and therefore, as to why

eleven months salary of ₹2,24,566/-² be not recovered against him.

2. In fact, recovery order is final order in the shape of notice 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 recovery notice dated 30.4.2014.
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 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

1 (2015) 4 SCC 334

2 2006 (2) MPHT 31 (CG)

3 2010 (3) CGLJ 400

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, the writ petition stands finally disposed of. No order as to cost(s).

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

B/-