

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No.4731 Of 2015**

Badrinath Tiwari, son of Shri Ram Mani Tiwari, aged about 44 years, working as Peon, Government Adarsh Higher Secondary School, Jashpur Nagar, District-Jashpur (C.G.)

---- Petitioner

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 Principal, Government Adarsh Higher Secondary School, Jashpur Nagar, District – Jashpur (C.G.)

---- Respondents

For Petitioner : 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 petitioner submits that the petitioner is working on the post of Peon in Adarsh

Higher Secondary School, Jashpur Nagar, District-Jashpur and was regularized by the department on 04.10.2008 and, thereafter, order dated 03.12.2015 (Annexure P-1) has been issued by respondent No.4-Principal, Government Adarsh Higher Secondary School, Jashpur Nagar, District –Jashpur directing recovery of Rs.2,31,045/-, which is to be deducted from petitioner's 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, it appears that the authority, unmindful of settled legal position, has issued the impugned order dated 03.12.2015.

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

1 (2015) 4 SCC 334

2 2006 (2) MPHT 31 (CG)

3 2010 (3) CGLJ 400

account of wrongly fixation of pay, therefore, excess amount is sought to be recovered from his 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 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 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/-