

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No.3981 of 2004**

Ram Nath Sonkar aged 62 years Son of late Shri Sitaram Sonkar,
retired Parichhetra Saha. Adhikari, Dhamtari (Samanya Van Mandal)
Dhamtari, District Dhamtari (CG)

---- Petitioner

Versus

1. The State Government Of Chhattisgarh Through the Secretary, Forest Department DKS Bhawan, Raipur
2. Van Mandaladhikari, South Raipur Vanmandal, Raipur
3. Conservator of Forest, Raipur Circle, Raipur (CG)
4. Chief Conservator of Forest, Chhattisgarh, Raipur (CG)
5. Van Mandladhikari, Samanya Van Mandal, Dhamtari, District Dhamtari (CG)

---- Respondents

For Petitioner	:	Mr.Ajay Shrivastava, Advocate
For Respondents	:	Mr.Dheeraj Wankhede, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

27/7/2017

1. The petitioner retired from government service as Forester on 30.6.2003. During his service tenure he was subjected to departmental inquiry which concluded on 1.7.1997, he was punished and was fixed at minimum pay scale of ₹ 1150/-. No order of recovery was passed against him for loss, if any. Now after his retirement, on 29.12.2003 and 30.12.2003 orders for recovery of ₹ 72719/- have been passed, against which, this writ petition has been filed.
2. Learned counsel for the petitioner would submit that after retirement order of penalty can not be passed against retired person. It can only be passed under Rule 9 of the Chhattisgarh Civil Services (Pension) Rules, 1976 by His Excellency the Governor on the ground of misconduct.

3. On the other hand, learned State Counsel for the respondents/State would support the impugned order.
4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
5. The petitioner stood retired from his service on 30.6.2003, on that day, neither any departmental proceeding was pending nor any recovery order was passed, thereafter only on 29.12.2003 and 30.12.2003 two recovery orders have been passed against the petitioner. The recovery for loss to the government is minor penalty under sub-rule (ii) of Rule 10 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. Now the petitioner stood retired from service, therefore, after his retirement no order for recovery (minor penalty) can be passed against him that too without complying with Rule 9 of the Rules of 1976.
6. In the instant case, the petitioner was subjected to departmental inquiry for alleged recovery, but no order for recovery has been passed during his service tenure.
7. Accordingly, the writ petition is allowed and the impugned orders dated 29.12.2003 and 30.12.2003 (Annexure P/3) are hereby quashed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-