

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2659 of 2008

- Shyam Sunder Kori, 63 Yrs, S/o Late Dharamdas Kori, Gayatri Mandir Ward 25, Mohan Nagar, Durg

---- Petitioner

Versus

1. State Of Chhattisgarh by Secretary, PWD, DKS Bhawan, Raipur
2. Engineer in Chief, PWD, Raipur
3. Superintendent Engineer, PWD, Durg

---- Respondents

For Petitioner	Shri Raja Sharma, Advocate
For Respondent-State	Shri Rajendra Tripathi, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/05/2017

1. Petitioner superannuated as Executive Engineer in the Department of Public Works, Government of Chhattisgarh on 31.12.2004. In course of finalization of his pension papers, the Superintendent Engineer, PWD, Durg Circle and Engineer-in-Chief, PWD, Raipur passed the impugned orders (Annexure-P-1 & P-2) directing recovery of Rs.2.70 lacs from the amount of gratuity payable to the petitioner.
2. Admittedly, the petitioner was not proceeded with any departmental enquiry either before or after his retirement, wherein any penalty has been imposed on him for recovery of the subject amount. The impugned order also does not refer to any

such order whereby the petitioner has been visited with penalty of recovery of the subject amount.

3. Although, Section 4 (6) of the Payment of Gratuity Act, 1972 provides for contingencies when the amount of gratuity can be forfeited to the extent of damage or loss caused by government servant to the State Government, such assessment of loss or damage or the involvement of a particular government officer has to precede with a full fledged enquiry saddling the liability upon the concerned government servant, wherein he is allowed to participate in accordance with the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.
4. The return filed by the respondents nowhere indicates that any such enquiry was ever constituted against the petitioner, wherein an order of subject recovery has been passed.
5. The impugned order has thus been passed in violation of principles of natural justice, therefore, it deserves to be and is hereby quashed. However, liberty is reserved in favour of the respondents to initiate enquiry against the petitioner, if permissible in law, in accordance with the Chhattisgarh Civil Services (Pension) Rules, 1976. If on culmination of any such permissible enquiry the petitioner is found guilty, the recovery can be made in accordance with law.
6. The writ petition stands allowed in the above stated terms.

Sd/-

JUDGE
PRASHANT KUMAR MISHRA

Nirala