

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 529 of 2007**

- Krishna Das Vaishnava S/o Late Shri Damodar Das Vaishnava, aged about 55 years, Occupation service as a Book Lifter posted at Government P.D. Commerce and Arts College, Raigarh, District Raigarh (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through its Secretary, Higher Education D.K.S. Bhawan, Raipur, District Raipur (CG)
2. Joint Director, Higher Education, Raipur, District Raipur (CG)
3. Commissioner, Higher Education Department, Raipur, District Raipur (CG)
4. Principal, Government P.D. Commerce & Arts College, Raigarh, District Raigarh (CG)
5. Assistant Director, Treasury Accounts and Pension, Bilaspur Division, Bilaspur (CG)

---- Respondent

For Petitioner	Mr. Vivek Tripathi, Advocate
For Respondent/State	Mr. R. Tripathi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

15/5/2017

1. Heard.
2. The petitioner would assail the order of recovery, by which, the excess payment made to him in terms of Fundamental Rule 22 D is sought to be recovered.
3. The petitioner was working as *Farras* in a private College which was later on taken over by the State Government along with the

staffs and at the time of taking over of the College, the petitioner was accommodated and appointed as Book Lifter because the post of Book Lifter was available in the Government set-up, however, vide letter dated 31.7.1984, the Secretary of the M.P. Uchcha Shiksha Anudan Ayog, Bhopal, informed the Principal of the College that the petitioner's pay scale shall be fixed on the basis of FR 22 D.

4. Pursuant to the said order, the petitioner was granted pay benefit on the basis of FR 22 D. In the year 1998, the Assistant Director, Treasury, Accounts and Pension, Bilaspur Division, raised an objection vide Annexure P/9 that the petitioner was not promoted on the post of Book Lifter, but was absorbed on the said post, because the post of Book Lifter was available in the Government set up, therefore, it is not a case for promotion entitling the petitioner to obtain benefit of FR 22D. The Assistant Director recommended for recovery of the amount paid in excess to the petitioner. The petitioner thereafter moved a representation, which was rejected vide Annexure P/12.
5. In the present writ petition, there is no interim order in favour of the petitioner staying the order, whereby, recovery has been directed against the petitioner.
6. Since admittedly the petitioner was never promoted as Book Lifter, he was not entitled to fixation of his pay scale under FR 22 D, therefore, there is no illegality in the objection raised by the Assistant Director, Treasury, Accounts and Pension, Bilaspur Division, directing recovery.
7. For the foregoing, there is no substance in the writ petition. It fails and is hereby dismissed. Sd/-

Judge

(Prashant Kumar Mishra)