

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2069 of 2017**

- Jaimani Bai W/o Late Shri Birbal Ram Bhagat, Aged About 60 Years R/o Village Batharkona, Post Komdo, Tahsil Jashpur, District Jashpur (Chhattisgarh).

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan, New Raipur (Chhattisgarh).
2. The District Education Officer, Jashpur District Jashpur (Chhattisgarh).
3. The Block Education Officer, Manora, District Jashpur (Chhattisgarh).
4. The Joint Director, Treasury, Account & Pension, Ambikapur District Sarguja (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Manoj Chauhan, Advocate
For Respondents-State	:	Shri Satish Gupta, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

02/05/2017

1. The present petition has been filed assailing the order dated 02.02.2015 Annexure P-2 whereby the respondent Authorities have recovered an amount of Rs.1,11,752/- as excess payment made to the husband of the petitioner while he was in service.
2. Petitioner's husband was working as Headmaster at Govt. Primary School, Dhahukona, Block Manora, District Jashpur (CG), died on 17.10.2014. Thereafter, the family pension admissible to the petitioner has been settled vide Annexure P-2, however, an amount of Rs.1,11,752/- has been recovered showing the same as paid in excess to the petitioner's husband

while he was in service.

3. Counsel for the petitioner submits that the impugned order of recovery is bad in law particularly in the light of the decision of the Supreme Court in the case of State of **Punjab and others etc. Vs. Rafiq Masih (White Washer) etc. reported in 2015 AIR SCW 501**. He submits that the issue involved in the present case has already been adjudicated upon by this Court in a series of writ petitions decided on 23.02.2017, the lead case being Writ Petition (S) No. 1283 of 2016.
4. State counsel on due verification submits that the facts of the present case are also similar to that of the bunch of writ petitions decided by this Court on 23.02.2017 and the present petition may be disposed on on the ground of parity.
5. In view of the same, the present writ petition also on the ground of parity deserves to be and is accordingly allowed. The impugned order of recovery dated 02.02.2015 (Annexure P-2) is held to be bad in law and is accordingly set aside. It is ordered that the amount of recovery, if any recovered, shall be refunded to the petitioner forthwith.

Sd/-

Judge
Prashant Kumar Mishra

Ashu