

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 5872 of 2005**

B.P. Tripathi, S/o Late Shri B.L. Tripathi, aged about 53 years, Posted at Divisional Forest Officer, Raja Talab, Raipur (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh through Secretary, Forest Department, D.K.S. Bhawan Mantralaya, Raipur (CG)
2. Principal Chief Conservator Forest, Raipur, District Raipur (CG)
3. State of M.P., Through: Secretary, Forest Department, Vallabh Bhawan, Bhopal (M.P.)
4. Principal Chief Conservator Forest, Bhopal District Bhopal (M.P.)
5. Conservator of Forest, Rewa Circle, Rewa (M.P.)

---- Respondents

For Petitioner	:	Mr.Bhaskar Payasi, Advocate
For Res.No.1 and 2	:	Mr.Majid Ali, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/11/2017

1. Learned counsel for the petitioner would submit that Rule 16 of the C.G. Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter called as "the Rules of 1966") has not been followed while ordering penalty, which has been affirmed by the Appellate Authority, which is unsustainable and bad in law.
2. On the other hand, learned Panel Lawyer for respondents No.1 and 2/State would oppose the writ petition.
3. I have heard learned counsel for the parties, considered their rival submissions made herein-above and also gone through the records with utmost circumspection.

4. In the matter of **K.P. Lakhwani v. Government of M.P. and others**¹, the Madhya Pradesh High Court has held as under: -

“The recovery of any pecuniary loss from the pay of a Government servant can be ordered as a minor penalty only when it is found that the loss has been caused to Government “by negligence or breach of orders.” The notice which has to be issued before imposing this penalty under rule 16 (1) (a) must inform the Government servant that he is made liable for the loss caused to the Government by his negligence or breach of any order. In the instant case, the notice does not allege that loss was caused to the Government by negligence of the petitioner. The notice only states that the committee found the petitioner liable for the loss. The committee did not find any employee directly responsible for the loss. Indeed, the committee resported (*sic* reported) that the question of recovery of the loss did not arise as no one could be held responsible for the loss. The final order directing the recovery also does not contain any clear finding that the loss was caused to the Government by the petitioner's negligence or breach of any order. In the opinion of this Court, therefore, the order directing the recovery of loss from the petitioner cannot be sustained. Petition partly allowed.”

5. In the instant case, the disciplinary authority has passed an order of recovery of ₹ 21630/- against the petitioner, but no finding has been recorded that loss has been caused to the Government by negligence or breach of the order and the Appellate Authority has affirmed that order. Thus, the present case is squarely covered by a decision of the Madhya Pradesh High Court in **K.P. Lakhwani** (supra), which has been followed by this Court in WPS No.6104 of 2006 (B.P. Tripathi Vs. State of Chhattisgarh), decided on 26.6.2015.

6. On the basis of principle of law laid down by the High Court of

Madhya Pradesh in **K.P. Lakhwani** (supra) and considering the fact that there is no finding that loss has been caused to the Government by negligence or breach of the order, it is held that order dated 24.2.2003 (Annexure P/5) passed by respondent No.2 with regard to recovery of ₹ 21630/- against the petitioner and order dated 1.7.2005 (Annexure P/9) passed by the Special Secretary, State of Chhattisgarh, Forest Department affirming the order directing recovery are hereby quashed.

7. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-