

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.A. No. 514 of 2017***(Arising out of order dated 11/09/2017 in W.P.(S) No.464/2017 of the learned Single Judge of this Court)*

G. K. Shrivastava S/o Late B N Shrivastava, Aged About 64 Years, Retired Assistant Conservator Of Forest (Wild Life) & Regional Director, Udanti Sitanadi Tiger Reserve, Raipur, Chhattisgarh. R/o H. No. 138, Sunder Nagar, Raipur, District Raipur (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Forest, Mantralaya, Mahanadi Bhawan, Naya Raipur (Chhattisgarh)
2. The Chhattisgarh Public Service Commission Raipur Through Its Secretary, Shankar Nagar Road, Raipur (Chhattisgarh)

---- Respondents.

For Appellant	: Shri R.K. Kesharwani, Advocate
For State	: Shri UNS Deo, Govt. Advocate
For respondent No.2	: Shri Ashish Shrivastava, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Order On Board****Per Thottathil B. Radhakrishnan, Chief Justice****15/12/2017**

1. We have heard the learned counsel for the appellant, learned Government Advocate and the learned counsel for the Public Service Commission.
2. This intra court appeal is against an interlocutory order passed by the learned single Judge refusing to stay the recovery of a particular amount from a retired government servant. The learned single Judge has made such recovery subject to the final outcome of the writ petition.
3. The learned counsel for the appellant argued that the order for recovery is one issued without following due procedure and that the appellant was not heard before the said order was issued. No enquiry as enjoined by law

was conducted, it is argued. It is also the submission that the decision for recovery is not taken with cabinet approval.

4. The order for recovery is issued by order of Governor. *Prima facie* we have to presume regularity and propriety of the official acts which would have led to the said order. This presumption could be impeached with reference to the records at the hearing of the Writ Petition. That cannot be had through an intracourt appeal against an order in the nature of the impugned one.
5. Balance of convenience and equitable considerations are also indicative that it would not be in the interest of a Government to release the amounts pending the litigation and proceed for further recovery if this litigation ultimately goes in its favour.
6. However, the learned counsel for the appellant has expressed anxiety that the appellant is not being paid any amount and his pension itself is deprived. If that be so, it may be open to the Appellant-Writ Petitioner to seek indulgence of the learned single Judge for early disposal of the Writ Petition or even apply to the competent authority for such monetary relief as may be available.
7. Without prejudice to what is said in the immediately preceding paragraph, this Writ Appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge