

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 784 of 2016**

Smt. Shanti Gupta W/o Late Chamru Prasad Gupta, aged about 52 years,
R/o Pratapgarh, Ward No.6, Tahsil and Police Station Sitapur, District
Surguja, (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, School Education
Department, Mahanadi Bhawan, New Raipur, P.S. Rakhi, District Raipur,
(Chhattisgarh)
2. The District Education Officer, District Surguja, (Chhattisgarh)
3. The Block Education Officer, Mainpath, District Surguja, (Chhattisgarh)
4. The Joint Director, Account, Treasury and Pension, Ambikapur, District
Surguja, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Harish Khuntiya, Advocate
For Respondents/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20/03/2017**

The present petition has been filed assailing the order dated 05.06.2014 Annexure P-1 whereby the respondent Authorities have recovered an amount of Rs.3,17,950/- as excess payment made to the husband of the petitioner.

2. The husband of the petitioner who was working as a Headmaster at Govt. Middle School, Khadgaon, Block Mainpath, District Surguja (CG) died on 18.10.2013. Thereafter, the petitioner had sought for releasing of pension and other benefits to her on the death of her husband. However, on 05.06.2014 the impugned order was issued showing an amount of Rs.3,17,950/- being paid in excess to the husband of the petitioner while he was in service. Therefore, the said amount was ordered to be recovered from the pensionary and retiral benefits.

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 05.06.2014 Annexure P-1 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/-
(**P. Sam Koshy**)
JUDGE