

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 963 of 2013**

- Smt. Kumudani Thomas S/o Late P.B. Singh Aged About 66 Years Retired L.H.V. Worked At P.H.C. Pussour, Distt. Raigarh, R/o Kailash Nagar, Ram Bhata, Distt. Raigarh C.G.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through - The Secretary, Health & Family Welfare Department, Mahanadi Mantralaya, New Raipur C.G.
2. The Director, Directorate Of Health Services, C.G. Raipur C.G.
3. The Chief Medical & Health Officer Raigarh, District Raigarh C.G.
4. The Accountant General Chhattisgarh Pendari, Pagariya Complex, Raipur C.G.

---- Respondents

For Petitioner

Mr. Rakesh Anthony, Advocate

For State

Mr. Avinash Singh, Panel Lawyer

For Respondent No.4

Mr. R.K. Gupta, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****26.04.2017**

1. The challenge in the present Writ Petition is Annexure P/1 dated 19.06.2008 whereby the Respondents have ordered for recovery of Rs. 67159/-.
2. The contention of the Petitioner is that the GPF amount and other retiral dues except payment of gratuity, had been settled by the Respondents immediately on the retirement of the Petitioner on 30.06.2007.
3. Learned Counsel for the Petitioner further submits that before issuance of Annexure P/1 no explanation or show cause notice was issued to the Petitioner. The Petitioner ought to have been provided an opportunity of

explaining that the order of recovery so issued was not tenable and therefore he makes limited prayer that the impugned order Annexure P/1 deserves to be set aside / quashed. He further refers to certain documents enclosed along with Petition from Annexure P/1 to Annexure P/6 whereby the separate PF account has been reflected which further creates doubts in respect of the alleged excess amount not pertaining to the Petitioner.

4. Be that as it may, particularly when an order has been issued, it is settled position of law that before passing of any such order opportunity of hearing ought to have been given in a case having civil consequence. In the instant case the impugned order is an order of recovery. The Petitioner undoubtedly is a retired employee and therefore any order of recovery could have an adverse consequence more particularly adverse financial implication. Therefore, it was incumbent upon the Respondents to have issued at least a show cause notice to the Petitioner before issuance of the impugned order.
5. The impugned order dated 19.06.2008 accordingly is set aside / quashed with a liberty to the Respondents to take appropriate measure of recovery if they so feel like after giving an opportunity of hearing to the Petitioner. Needless to mention that the Petitioner shall also fully cooperate, in case, an opportunity of hearing is given.
6. With the aforesaid observation the Writ petition is allowed and disposed off.

Sd/-

**(P. Sam Koshy)
JUDGE**