NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.610 of 2016

- Tahaku Ram Kesharwani S/o Gurusewak Kesharwani, Aged About 77 Years Occupation Retired Principal, R/o Village Naya Ward No.2, Bhatgaon, Tahsil Bilaigarh, District Baloda Bazar (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mahanadi Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
2. The District Education Officer, Raipur, District Raipur, (Chhattisgarh)
3. The Joint Director, Fund Account And Pension, Raipur, (Chhattisgarh)
4. The Treasurer, District Treasury Office, Raipur, (Chhattisgarh)
5. The Branch Manager, State Bank Of India, Branch Bhatgaon, Tahsil Bilaigarh, District Baloda Bazar (Chhattisgarh)

---- Respondents

For Petitioner : Shri Anand Kesharwani, Advocate
For Respondent/State : Shri Satish Gupta, GA
None For Respondent No.5.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/08/2017

Heard.

2. The petitioner a pensioner, aged 77 years, has filed this petition before this Court, aggrieved by illegal deductions made from his pension in excess of the amount of commuted pension of Rs.54,443/-. The petitioner retired upon attaining the age of superannuation on 30-09-2001 from the post of Teacher availing commutation of pension under M.P./CG Civil Services (Commutation of

Pension) Rules, 1996 (In short “the Rules of 1996”). The petitioner sought and was permitted to commute pension for an amount of Rs.54,443/-. As against this commutation of pension, deduction of Rs.1088/- per month was being made from his monthly pension. Even when the entire amount of Rs.54,443/- was deducted in installments up to November 2005, the deductions were continued. Aggrieved by such deductions made, over and above Rs.54,443/-, the petitioner approached this Court.

3. Short submission of learned counsel for the petitioner is that the deduction more than the amount of commuted pension is not permissible. He submits that the Rules of 1996 permitted deduction on monthly basis against the amount of commuted pension and the beneficiary rule is that the commuted pension shall be restored on pensioner attaining the age of 75 years or completion of 15 years after retirement, whichever is later, cannot be read to mean that the deduction shall continue till that time even in excess of the commuted pension amount paid at the time of retirement.

4. On the other hand, learned State counsel submits that as per the provisions contained in sub rule(2) of Rule 10 of the Rules of 1996, it was the duty of the petitioner/pensioner to submit appropriate application in Form-4”A” before the competent authority to inform that the deduction beyond Rs.54,443/- is not to be made. As the petitioner himself did not inform this, deductions were made, for which, the respondents cannot be held liable.

5. It is quite obvious that the petitioner, at the time of retirement had commuted pension of an amount of Rs.54,443/- in accordance with the Rules of 1996. The provisions contained in sub rule(2) of Rule 10 of the Rules of 1996, as amended vide notification dated 18-02-2000 allowed respondents to make deductions towards recovery of the commuted pension amount by way of installments up to age of 75 years or after completion of 15 years of retirement

of pensioner, whichever is later. That however, does not mean that the deductions shall continue even in excess of the commuted pension amount. It is not in dispute that till September, 2016, total amount of Rs.1,95,840/- has been deducted from the pension of the petitioner, which is far more than the amount of commuted pension amount of Rs.54,443/-.

6. On computation made, it is found that if Rs.1,088/- was deducted per month from October, 2001, an amount of Rs.54,443/- was recovered by November, 2005. Further deduction of Rs.1088/- per month, after November, 2005, is wholly illegal and not permissible in the eye of law, for which, the pensioner suffered financial loss.

7. The entire amount, which is in excess of Rs.54,443/- is liable to be refunded to the petitioner, as total amount of Rs.1,95,840/- has already been recovered, balance amount of Rs.1,41,397/- is refundable to the petitioner. Considering that the deductions were made @ Rs.1088/- per month, rate of interest @ 8% is payable to the petitioner on the balance amount. An amount of Rs.1,41,397/- along with interest @ 8% shall be paid to the petitioner within a period of two months. If payment is not so made within a period of two months from the date of receipt of a copy of this order by respondents No.2 to 4, the total amount shall carry interest @ 18% till the amount is paid to the petitioner, in addition to any other proceedings that may be drawn for violation of the Court's order.

8. The petition is accordingly allowed.

SD/-
(Manindra Mohan Shrivastava)
Judge

Tumane