

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 956 of 2012**

D. P. Singh, aged about 61 years, son of late Shri Sitaram Singh, retired Assistant Grade-II, Thakur Chhedilal Government Post Graduate College, Janjgir, R/o Kahrapara Purani Basti Ward No.13, Janjgir, District Janjgir, Champa (CG)

---- Petitioner**Versus**

1. The State of Chhattisgarh, through the Secretary, Higher Education Department, Raipur, District Raipur (CG)
2. The Commissioner, Higher Education Department, Government Science College Parisar, Raipur, District Raipur (CG)
3. The Collector, Janjgir Champa, District Janjgir Champa (CG)
4. Principal, Thakur Chhedilal Government Post Graduate College, Janjgir, District Janjgir Champa (CG)

---- Respondents

For Petitioner	:	Shri Kalyan Kalamkar, Advocate
For Respondent/State	:	Smt. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/07/2018**

The challenge in the present writ petition is to the action on the part of the respondents whereby they have straightaway deducted an amount of Rs.2,43,711, Rs.50,513 & Rs.18,370 totalling Rs.3,12,594/- from the dues that were payable to the petitioner on his retirement. To add misery to the petitioner, the respondents have also till date not settled the retiral dues even after deducting the said amount by paying the balance amount to the petitioner and his pensionary benefits also has not been settled till date. The alleged recovery which has been made by the Department was on the head

of charges for shortage of furniture and stationary, the expenses made towards student welfare.

2. The challenge to the impugned action on the part of the respondents is on the ground that firstly the order of recovery being made only against the petitioner and secondly the order of recovery is also being in utter violation of basic principles of nature justice, in as much as the petitioner has not been granted an opportunity of defence neither has he been granted any opportunity of hearing before any authorities before the recovery was made. It is contended by the petitioner that even otherwise the recovery could not have been made after his retirement if at all if there was any shortfall or shortage, the authorities should have taken appropriate steps at the appropriate time for recovery of loss if any after ascertaining the role played by the petitioner to the extent of loss caused.

3. State counsel relying upon the reply filed by the respondents in the petition tried to justify the action on the part of the respondents alleging that on the retirement of the petitioner, there was a committee consisting of 5 professors working in the college who conducted an enquiry and in the enquiry it was found that there was certain shortage of furnitures and stationary products and certain amount of student welfare also seems to have been unaccounted based upon which the recovery proceeding has been drawn.

4. What cannot be lost sight is that from the documents which have been produced by either side and the submissions put forth by the parties, admittedly there does not appear to be any order passed against the petitioner so far as the recovery which has been made. There was a straightaway deductions of the amount from the dues payable to the petitioner on his retirement. Further from the proceedings it also does not reflect that any enquiry or preliminary investigation whatsoever was conducted after taking the

petitioner into confidence or in the presence of the petitioner even the report prepared by the said committee consisting of 5 professors does not reflect to have been taken the petitioner into confidence.

5. What also cannot be lost sight is the fact that the petitioner was working on the post of AG-II/AG-I and that the respondents do not have any material in their possession to show how the petitioner was himself responsible for the entire shortfall of furnitures in the establishment or for the shortage of stationary, likewise for the loss caused on the head of student welfare.

6. In the absence of any finding to the extent of holding the petitioner alone responsible or hold guilty for the said act and for the damage/loss caused to the Department, the action on the part of the respondents in initiating recovery is per se illegal and is not sustainable. Thus, the impugned action on the part of the respondents deserves to be and is accordingly set aside. The respondents are directed to forthwith refund the entire amount to the petitioner and the said amount shall also carry interest @ 9% per annum from the date of deductions till the date of payment. It is further directed that if the petitioner's retiral dues have not been released till date, the same has also to be released forthwith which shall also carry interest at the same rate from the date of retirement till the date of payment.

7. The writ petition accordingly stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**