

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1176 of 2013**

K.R. Sahu, S/o. Late Jai Lal Sahu, Aged about 60 years, R/o. Subash Nagar, Munshi Raja Badi, Ward No. 42, House No. 374, Durg, Post Kasaridih, Police Station Durg, District Durg Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Water Resources Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Executive Engineer, Electrical and Mechanical/Light Machinery Tube-well and Gate Department, Durg Division, District Durg Chhattisgarh

----Respondents

For Petitioner	:	Mr. Manish Upadhyay, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/10/2018**

1. The dispute in the present writ petition is to the action on the part of the respondents in deducting an amount of Rs.67,027/- from the gratuity amount payable to the petitioner.
2. The contention of the petitioner is that the petitioner retired from the office of the respondents on the post of Assistant Grade-II w.e.f. 30.06.2012. After the retirement, the petitioner was paid all the retiral dues and release of the pension was also processed. Meanwhile the authorities concerned detected that an amount of Rs. 67,027/- was paid in excess to the petitioner while releasing his GPF amount and the same was on account of certain withdrawals, which the petitioner had made while in service and which was not entered in his passbook, which led to the excess payment.

3. Subsequently, since all the other dues were paid, the amount of Rs.67,027/- was adjusted against the gratuity amount payable to the petitioner and the balance amount of gratuity was released to the petitioner. It is this decision, which is under challenge in the present writ petition.
4. The contention of the petitioner is that before making any deduction the respondents have not given any opportunity of hearing to the petitioner, nor has the petitioner been given any opportunity to explain, whether he has at all made any withdrawals from his GPF account or not, and thus the recovery made is bad in law.
5. On the contrary, the respondents/State has as early as on 27.05.2013 i.e. well about 5 years back had filed a reply and in the reply they have specifically stated that the petitioner had in the year 1989 withdrawn an amount of Rs.5,200/- from his GPF account and further an amount of Rs.12,000/- was withdrawn by the petitioner in February, 1991. It was the further contention of the State that since the petitioner himself was the in-charge of the section, it was he who was supposed to make all the necessary entries in the GPF passbook and the petitioner has not made the entry, which led to the non-detecting of the said withdrawals made by the petitioner resulting in excess payment made to the petitioner while releasing the GPF amount.
6. Though the reply of the State government was filed 5½ years back, the petitioner till date has not submitted any rejoinder in rebuttal to the reply of the State. In the absence of any rebuttal, the only inference that we can draw is that the contention of the respondents/State appears to be justified and proper. However, since it is a matter of monetary benefits

payable to the petitioner on his retirement and the fact that before making the said deduction, the petitioner has not been granted a reasonable opportunity of hearing or defense, ends of justice would meet if the petitioner's case can be sent to the committee constituted by the State Government for redressal of the retiral-cum-pension disputes, wherein the committee shall after giving due opportunity of hearing to the petitioner and also taking into consideration the available records, particularly in respect of the periodical withdrawals, which the petitioner has made from his GPF account, pass a suitable order, as to whether there was a necessity for making of such a recovery or not?

7. With the aforesaid directions, the writ petition stands disposed off.
8. It is expected that the committee shall take a decision at the earliest.

Sd/-
(P. Sam Koshy)
Judge

Ved