

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3606 of 2013**

Smt. Leela Devi W/o Shri Kundan Kumar Aged About 61 Years
Occupation Retired Sub Inspector Of Police, R/o Jacob Chal Infront
Of Bukhari Petrol Pump, Link Road, P.S. Tarbahar, Tahsil And District
Bilaspur, Civil And Revenue District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary Department Of Home, Mahanadi Mantralaya, New Raipur, District Raipur, Chhattisgarh
2. Director General of Police, Police Headquarter, Raipur, District Raipur, Chhattisgarh
3. Superintendent of Police, Raigarh, District Raigarh, Chhattisgarh
4. Assistant Director, Treasury, Account And Pension, Bilaspur, District : Bilaspur, Chhattisgarh
5. Accountant General of Chhattisgarh, Vidhan Sabha Chowk, New Raipur, District : Raipur, Chhattisgarh
6. Senior Accountant Officer/Assistant Accountant General, Office Of Accountant General of Chhattisgarh, Vidhan Sabha Chowk, New Raipur, District : Raipur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. F.S. Khare, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate
For Respondents No. 5 & 6	:	Mr. Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/05/2018**

1. The present is a second round of litigation. The claim of the petitioner is for non-granting of the entire retiral duties payable to the petitioner and in addition the grievance also is that of a deduction of an amount of more than Rs.58,000/- from the gratuity amount payable to the petitioner.
2. On an earlier round of litigation in WPS No. 2848/2018, the matter stood referred to the High Power Retiral Dues Committee with a direction that the committee shall issue notice to the petitioner and the officers concerned and thereafter shall pass a suitable orders on

the basis of the materials placed before the committee. Subsequently, the committee vide order dated 23.12.2013 has passed an order whereby it has been held that there is an excess payment of Rs.58,070/- paid to the petitioner by way of excess payment which was liable to be recovered and which has subsequently been recovered from the gratuity amount payable to the petitioner. The present writ petition has been filed thereafter.

3. The contention of the petitioner firstly is that the petitioner as such has never been called by the committee and it is an erroneous finding of the committee that the petitioner has appeared and submitted his contentions before the committee. He further submits that the finding of the committee also is not a speaking order in as much as there is no discussion in respect of verification of the records by the committee, neither is there any averment made by the committee in respect of what were the documents which was produced before the committee, with which they have given the findings. Thus prayed for setting aside of the order and the matter be remitted back to the committee for a fresh adjudication in the case of the petitioner.
4. This prayer of the petitioner has not been opposed by the counsel for the Union of India, so also by the State counsel.
5. On perusal of the record, this Court is also of the opinion that the High Power Retiral Dues Committee ought to had been more specific in their finding in as much as they should have discussed upon the records, which were produced by the employer so also the office of the Accountant General and should have tallied the two records and then should have reached to a conclusion. The committee also

should have taken note of the monthly contribution made towards the GPF in the 31-32 years of service of the petitioner, so as to reach to a conclusion, whether the petitioner would in fact had been entitled for only Rs.1,72,000/- or she would had been entitled for more.

6. Moreover, the committee also should have born in mind the guidelines laid by the Hon'ble Supreme Court in the case of ***"State of Punjab and others etc. vs. Rafiq Masih (White Washer) etc."*** reported in ***2015 AIR SCW 501***, so far as any excess payment having being made to the employee for no fault of his and that to in respect of certain payments made much prior to the date of retirement thereby the recovery part became impermissible under law.
7. Given the aforesaid facts, this Court is inclined to allow the writ petition and to set-aside the order of the committee dated 23.12.2013 and the matter stands again remitted back to the High Power Committee.
8. It is directed the committee shall forthwith call upon the office of the Accountant General so also the office where the petitioner had worked with a specific direction to bring forth the entire records pertaining to the GPF is concerned and the committee shall also call upon the petitioner and in his presence may scrutinize the records and thereafter pass a suitable orders.
9. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge