

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 934 OF 2018**

Laxman Singh Bisai S/o Shri Manglu Singh Bisai, Aged About 72 Years, Retired Assistant Teacher R/o Village Muli Tahsil Bakawand, District Bastar, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mahandi Bhawan, Mantralaya Naya Raipur, District Raipur, Chhattisgarh
2. Accountant General, Office Of The Accountant General, Chhattisgarh Raipur, Chhattisgarh
3. District Treasury Officer, Jagdalpur, District Bastar, Chhattisgarh
4. Block Education Officer , Bakawand, District Bastar, Chhattisgarh

... **Respondent(s)**

For Petitioner	:	Shri C. Jayant K. Rao, Advocate.
For Respondent-State	:	Shri Dhiraj Wankhede, G.A.
For Union of India	:	Shri Ashwini Shukla, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08.08.2018

1. Challenge in the present writ petition is to the order dated 10.10.2017, Annexure P-1, whereby the Respondents have issued a notice of recovery to the Petitioner to the tune of Rs.1,41,652/- on the ground that the GPF account of the Petitioner subsequently on scrutiny was found to be with negative balance of the said amount.
2. Learned Counsel for the Petitioner submits that the impugned order is not sustainable on the ground that the recovery order could not

have been issued against the Petitioner as the Petitioner was not the employee working under the Respondents. Further, it was contended by the Petitioner that the order of recovery also is not sustainable as the same has been issued after more than 9 years from the date of retirement of the employee or the date on which the amount fell due to the Petitioner.

3. Learned Counsel appearing for the respective Respondents opposing the petition submitted that it is a case where it has been found that the GPF account of the deceased employee had a negative balance and therefore the Petitioner has been paid an amount of Rs.1,41,652/- in excess to what he was otherwise entitled for and thus the notice of recovery cannot be said to be bad in law.
4. Having heard the contentions put forth on either side and on perusal of record, admittedly the petitioner was working as Assistant Teacher with the Respondents till his retirement on 31.01.2008. The impugned order now has been passed after more than 9 years from the date of retirement.
5. Given the aforesaid facts and circumstances, what culls out is that the Petitioner is not responsible for the alleged excess payment if any paid to him. Moreover, there is a huge delay on the part of the Respondents in determining the alleged excess payment which now has been ordered to be recovered after more than 9 years from the date of retirement of the employee. Given this factual matrix, this Court is of the opinion that the impugned order of recovery thus is one which would be impermissible under law keeping in view the ratio of law laid by the Hon'ble Supreme Court in the case of State of

Punjab and others etc. Vs. Rafiq Masih (White Washer) etc., 2014
(8) SCC 883.

6. The writ petition thus stands allowed and disposed of accordingly and the impugned order stands set aside/quashed.

Sd/-
(P. Sam Koshy)
Judge