

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 3644 OF 2017**

R. B. Khan S/o Late Peer Baksha, Aged About 67 Years Retired Lab Technician, Nangur, R/o Pt. Dindayal Upadhyay Ward No. 19, Jagdalpur, District Bastar Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Chief Medical And Health Officer, Jagdalpur, District Bastar Jagdalpur Chhattisgarh.
3. Accountant General, Office Of The Accountant General, Chhattisgarh
4. District Treasury Officer, Jagdalpur, District Bastar Jagdalpur Chhattisgarh.
5. Block Medical Officer Community Health Center, Nangur, District Bastar Jagdalpur Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri CJK Rao, Advocate.
For Respondent-State	:	Shri Shashank Thakur, G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28.06.2018

1. Challenge in the present writ petition is to the order dated 16.06.2017, Annexure P-1, whereby the Respondents have issued a notice of recovery to the Petitioner to the tune of Rs.3,09,730/- 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 have 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 7 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.3,09,730/- 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 Lab Technician with the Respondents till his death on 30.06.2010. The impugned order now has been passed after more than 7 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 7 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