

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1245 of 2018**

R. K. Dewangon S/o Late Shri Jhadu Ram Dewangan, Aged About 61 Years Handloom, Working As Inspector, In Office Of Assistant Director, Handloom, District Office Durg, District Durg, Chhattisgarh,

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, State Govt. Of Chhattisgarh, Village And Industries Department Ministry, Mahanadi Bhawan, P. S. Rakhi, New Raipur, Chhattisgarh
2. Deputy Director, District Handloom Office, Raipur, Chhattisgarh,
3. Assistant Director Handloom, Office, Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Vinod Verma, Advocate
For State	:	Mr. Majid Ali, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/02/2018**

1. The present is a writ petition challenging the order of recovery ordered by the respondents. The petitioner in the instant case is a 61 year old employee working in the Handloom Department as a Handloom Inspector. The petitioner was appointed with the respondents in 1984 and is due to retire on July, 2018 barely 5 months from now.
2. The respondents have now issued with an order whereby the department is said to have found that there was certain excess payment made to the petitioner to the tune of Rs.84,088/-.
3. The counsel for the petitioner submits that the respondents have started recovering the said amount from the monthly wages of the petitioner @ Rs.10,511/-

4. Counsel for the petitioner submits that the impugned order of recovery has been passed without giving any opportunity of hearing to the petitioner. He submits that the excess amount, if any, paid to the petitioner is not on account of any misrepresentation made by the petitioner.
5. He further submits that it is also not a case where there is an allegation of misappropriation against the present petitioner. Thus, the order of recovery could not have been made in the light of the judgment of 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***.
6. At this juncture, the State counsel opposing the petition submits that it appears that the petitioner has been wrongly given some excess payment than what he was otherwise entitled for, the moment it was detected since he is still in employment, the department has initiated steps for recovering the same from the salary that is payable to him.
7. Having heard the contentions put forth on either side and on perusal of record, this Court is of the opinion that no fruitful purpose would be served in keeping the petition pending.
8. It is ordered that the impugned order of recovery so passed by the respondents is apparently without giving opportunity of hearing to the petitioner. It is settled position of law that any action which has a civil or an adverse consequence, an opportunity of hearing is must. In the instant case, the department has initiated steps of recovery against the petitioner from the monthly salary by making recovery of more than Rs.10,500/- a month is definitely going to adversely affect the petitioner.

9. Given the said facts and circumstances of the case and also keeping in view the judgment of the Hon'ble Supreme Court in the case of "Rafiq Masih" (supra), the impugned order of recovery is not sustainable and the same deserves to be and is accordingly set-aside. However, there shall be a liberty to the State Government for initiating appropriate proceedings after giving an opportunity to the petitioner and then ultimately if it is found that there has been some excess payment made, appropriate orders can be passed.
10. With the aforesaid liberty, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved