

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3582 of 2010**

H.L. Jain, S/o. K.L. Jain, Aged about 63 years, R/o. Ward No.3,
Dongargaon, District Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Public Works Department, D.K.S. Bhawan, Raipur, District Raipur, Chhattisgarh.
2. Chief Engineer, Public Works Department, Raipur, Chhattisgarh
3. Executive Engineer, Public Works Department, Rajnandgaon, District Rajnandgaon, Chhattisgarh
4. Sub-Divisional Officer, Public Works Department (B/R), Sub Division No.2, Rajnandgaon, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Jitendra Gupta, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****22/03/2018**

1. The challenge in the present writ petition is the two recovery made by the respondent-State Government. First being an amount of Rs.50,000/- and second being an amount of Rs.46,925/-.
2. The grievance of the petitioner is that this Rs.50,000/- which has been recovered from him is in fact an amount which was drawn by him for depositing the same before the Motor Accident Claims Tribunal, Rajnandgaon, in Motor Accident Claims Case No. 103/2006, which was a Claims Case filed against the State Government.
3. So far as the amount of Rs.46,925/- is concerned, the counsel for the petitioner submits that no reason whatsoever was given to the petitioner neither was any explanation sought for before the deductions were so made by the department. He further submits that

he had no outstanding dues available against him on the date of retirement and the said recovery made is bad in law.

4. Per contra, the State counsel opposing the petition submits that Annexure R/1 is a document which has been filed by the petitioner himself wherein he has given an undertaking that the said amount of Rs.50,000/- can be recovered from his gratuity which he has deposited before the Motor Accident Claims Tribunal. So far as the amount of Rs.46,925/- is concerned, the counsel for the State referring to Annexure R/2 brought on record by an additional reply dated 03.09.2015 shows the different heads where there were certain outstanding dues pending against him, which is reflected from the show cause notice given to him on 20.06.2007 vide Annexure R/3 and thus the State Government submits that it is not a case where the opportunity of hearing was not given to the petitioner before recovery.
5. Having heard the contention put forth on either side and on perusal of record, what reflects is that Rs.50,000/- which has been recovered from the petitioner was against an amount which the petitioner had drawn from the department and deposited before the Motor Accident Claims Tribunal, Rajnandgaon in a Motor Accident Claims Case. The respondent-State was a contesting respondent in the said Motor Accident Claims Case. The record Annexure P/3 particularly shows that the award by the Motor Accident Claims Tribunal i.e. Annexure P/3 dated 17.09.2007 in Motor Accident Claims Case No. 103/2006 has been decided against the State Government where the State Government is held liable to pay compensation jointly along with the Driver and other respondents to the tune of Rs.3,30,500/-. It is Rs.50,000/- of this award, which was deposited by the petitioner,

which appears to be a interim award which the State had to deposit under the no fault liability. If the petitioner has deposited the said amount before the Tribunal in a case where the State Government is a party then the said amount could not have been recovered from the petitioner treating it to be an outstanding amount against the petitioner.

6. If the petitioner is able to convince the authorities concerned in respect of the amount having being deposited before the Tribunal by the petitioner, the petitioner would be entitled for the refund of the said amount forthwith with interest @ 6% per annum from the date the respondents had recovered the said amount from the petitioner.
7. Likewise, so far as the amount of Rs.46,925/- is concerned, the petitioner is given the liberty to approach the respondent No.3, who in turn shall personally verify the service record of the petitioner and after granting an opportunity of hearing to the petitioner to explain the various deductions which have been made from his account periodically and if the petitioner is able to produce justifiable explanation to the respondents in respect of these outstanding dues, the respondent No.3 in turn shall pass a suitable order directing refund of the said amount to the petitioner which shall also carry interest @ 6%, however if the petitioner is unable to show proper explanation or justification to this recovery, the respondents need not make any payment to the petitioner.
8. The writ petition accordingly stands partly allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge