

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4317 of 2014**

Chhote Lal Mishra S/o Late Shri Chhedilal Mishra, Aged About 65 Years
Retd. Head Master, R/o Village Jaitpur, P.O. Malhar, District Bilaspur,
Presently resided at Qtr. No. LIG 857, Deendayal Awas Mangla,
Bilaspur, Police Station Civil Line, Civil And Revenue District Bilaspur,
Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. High Power Retiral Dues Committee Through Special Secretary/ Member Secretary Of Pension Nirakaran Samity, Mantralaya, Raipur, District Raipur, Chhattisgarh
3. Accountant General Chhattisgarh, In front Of Vidhan Sabha Baloda Bazar, Raipur, Chhattisgarh
4. Divisional Joint Director Treasury, Account And Pension, Bilaspur, District Bilaspur, Chhattisgarh
5. Principal Govt. S.B.T. Higher Secondary School Budhikhar, Bilaspur, District Bilaspur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Ishwar Jaiswal, Advocate
For State	:	Mr. Syed Majid Ali, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****31/07/2018**

1. Challenge in the present writ petition is to the order dated 05.08.2014, Annexure P-1, whereby the Respondents have issued a notice of recovery to the Petitioner to the tune of Rs.1,59,597/- 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 firstly the recovery order could have not have been issued against a retired employee. Secondly, it was

contended by the Petitioner that the order of recovery also is not sustainable as the same has been issued after more than 4 years from the date of retirement 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 petitioner had a negative balance and therefore the Petitioner has been paid an amount of Rs.1,59,597/- 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 employee in the instant case was working as Headmaster with the Respondents and that on retirement the petitioner has been paid all the retiral dues including pensionary benefits. The impugned order now has been passed after more than 04 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 04 years from the date of retirement. 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 order is also bad in law, as before issuance of the impugned notice no opportunity of hearing or defence was granted to the petitioner.
7. The writ petition thus stands allowed and disposed of accordingly and the impugned order stands set aside/quashed.

Sd/-
(P. Sam Koshy)
Judge

Ved