NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5593 of 2018

D.C. Chandra S/o Shri Dhani Ram Chandra , Aged About 70 Years R/o Nagar Panchayat Dhabra, Ward No. 12, Village And Tahsil Dhabra, District Janjgir-Chmpa Chhattisgarh.

---- Petitioner

Versus

1. The Accountant General Chhattisgarh, Pandri, Raipur, Chhattisgarh.
2. The State Of Chhattisgarh Through The Secretary, Department Of Veterinary Sciences, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh.
3. The Director, Directorate Of Veterinary Sciences, Raipur Chhattisgarh.
4. The Deputy Director, Department Of Veterinary Sciences, Korba Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Animesh Verma, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer
For Respondent No.1	:	Mr. Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

07/09/2018

1. The grievance of the petitioner is to the order Annexure P/1 dated 17.08.2017, whereby an order for recovery of Rs. 1,47,397/- has been directed to be made from the pension of the petitioner with interest.

2. The facts of the case is that the petitioner stood retired from the post of Assistant Veterinary Medical Officer w.e.f. 30.09.2008. After his retirement on 26.04.2011 vide Annexure P/3, the respondents issued a notice showing a negative balance in the GPF account of the petitioner to the tune of Rs. 1,47,397/-.

3. From the contents of the writ petition and the records enclosed along with that what is evident is that the petitioner stood retired

from service on 30.09.2008. The retiral dues payable to the petitioner has already been released to the petitioner. However, later on the respondents for the first time vide Annexure P-3 dated 26.04.2011 intimated the petitioner in respect of the negative balance which is reflected in PF account of the petitioner and directed the petitioner to refund the same.

4. The contention of the respondents was that the petitioner had periodically withdrawn from his PF account which was not properly accounted in his pass book and this led to the discrepancy for which the notice of refund was issued.

5. After issuance of Annexure P-3 dated 26.04.2011, it is Annexure P-1 which was subsequently issued on 17.08.2017 again asking the petitioner to deposit the excess amount of PF which he has received or else the said excess amount would have to be recovered from the pension payable to the petitioner.

6. The aforesaid factual matrix of the case is not in dispute. What clearly reflects from the contents of the petition is that the first letter dated 26.04.2011 (Annexure P-3) and the subsequent notice dated 17.08.2017 (Annexure P-1) both have been issued in violation of the settled basic principle of natural justice which is granting of an opportunity of hearing. The petitioner was not called upon even once before the two notices were issued seeking for his explanation so far as the excess amount of GPF paid to the petitioner is concerned. The petitioner is also entitled for an opportunity of explanation to explain the fact as to whether he has at any point of time ever withdrawn anything from his GPF account or not. This

was the least that was expected from an employer before passing an order which otherwise has an adverse civil consequence.

7. Given the aforesaid factual matrix, which has not been controverted or disputed by the counsel appearing on behalf of the respondents, the only course left for this Court is for directing the respondents to reconsider the entire GPF account of the petitioner.

8. The writ petition accordingly stands disposed off with a direction to the respondents to physically verify the actual GPF account and the passbook and the entries made in those records, pertaining to the GPF amount in respect of the petitioner. That while doing so, the respondents shall also call upon the petitioner and shall also verify the actual documents, which are in possession of the petitioner, so far as the GPF entries are concerned. That after a thorough scrutiny of the entire records, let a fresh order be passed determining as to whether any amount is payable to the petitioner in the GPF account or whether any recovery has to be made by virtue of any excess amount paid.

9. Let this exercise be concluded within a period of four months.

10. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved