

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS. No. 8254 of 2018**

Girdhari Lal Behra S/o Late Shri U. R. Behra Aged About 61 Years R/o Village Dhobnipali, Post Salheona, Tahsil Sarangarh, District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Home/ Police, Secretariat, Mahandi Bhawan, P. S. And Post Rakhi, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. Director General Of Police (D. G. P.) Police Headquarter (Phq), Near Mahanadi Bhawan, P. S. And Post Rakhi, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
3. Deputy Inspector General Of Police (D. I. G. P.) Administration, Police Headquarter (Phq), Near Mahanadi Bhawan, P. S. And Post Rakhi, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
4. Superintendent Of Police (S. P.) Office Of The Superintendent Of Police (S. P.) Janjgir- Champa, District Janjgir- Champa, Chhattisgarh.
5. Public Information Officer/additional Superintendent Of Police (Addl. S. P.), Office Of The Superintendent Of Police (S. P.) Janjgir- Champa, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate.
For State	:	Mr. Chandresh Shrivastava, PL.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****13.12.2018**

1. The challenge in the present writ petition is to the order dated 22.10.2018 (Annexure P-2), which is an order of recovery dated 19.01.2018 whereby the amount of Rs. 70,274/- has been shown to be recoverable from the petitioner.
2. Brief facts of this is that the petitioner was working under the respondents as an Assistant Sub-Inspector at Janjgir- Champa. The petitioner was inflicted with an order of compulsory retirement on 18.08.2017. Subsequently, when the retrial dues were being released to the petitioner, he came to know that there has been a recovery of Rs. 70, 274/- made from the retrial dues payable to the petitioner. Respondents have also deducted the said amount on the release of balance of retiral dues. It is this action on the part of the respondents,

which is under challenge in the present writ petition.

3. The contention of the petitioner is that the petitioner all along with when he was in service was never intimated of any excess amount paid to the petitioner, neither did the respondents initiate any recovery while he was in service. It was also the contention of the petitioner that the alleged excess amount has been paid not on account of any misrepresentation on the part of the petitioner but was on the fault of the respondents. It was further contented that said excess amount was also of a period more than 20 years prior to the petitioner had retired, thus the said action becomes impermissible under law.
4. The State counsel on the contrary submits that it is the case where the petitioner has been inflicted with the order of compulsory retirement, therefore, it is only when the settlement of what was payable to the petitioner being made by the department they came to know about the excess payment and when it came to the knowledge they immediately acted upon, therefore, it cannot be said to be bad in law.
5. Having heard the contentions put forth with either side perusal of the records admittedly the petitioner stood retired with effect from 18.08.2017. The excess amount paid to the petitioner by way of erroneous fixation was since 01.01.1996 ie. about 21 years prior to the date of his retirement. It is not the case of the respondents that the excess payment was on account of any misrepresentation on the part of the petitioner.
6. At this juncture it would be relevant refer to the Judgment of the Hon'ble Supreme Court in the case of **State of Punjab and Ors Versus Rafiq Masih (White Washer) etc.** reported in **(2015) 4 SCC 334** in the said judgment the Hon'ble Supreme Court has in very categorical terms narrated the situations where the recoveries have been held to be

impermissible under law, if the admitted position of the present writ petition is taken note of, it clearly depicts that all those situations envisaged in the judgment of **State of Punjab & Ors (supra)** squarely applies in the case of the petitioner. Thus given the aforesaid factual position and the law as has been laid down by the Supreme Court this court is of the opinion that the action on the part of the respondents in issuance of Annexure P-2 is bad in law and the same deserves to be and is accordingly set aside/quashed. That as a consequence the amount which is recovered from the petitioner shall be refunded back to the petitioner forthwith within a period of 60 days from the date of receipt of order of this Court. Let the petitioner bring the order of this Court to the respondents for necessary compliance.

Sd /-

(P. Sam Koshy)
Judge